

**SENATE BILL NO. 820**

December 2, 1997, Introduced by Senators CHERRY,  
VAN REGENMORTER, MC MANUS, V. SMITH, DINGELL, PETERS,  
CISKY, GEAKE, DE BEAUSSAERT and CONROY and referred  
to the Committee on Judiciary.

A bill to license and regulate bail recovery agents; to provide for certain powers and duties for certain state agencies and law enforcement agencies; to require the obtaining of surety devices by licensees; to provide for the imposition of certain fees and establishment of certain standards of operation of licensees; to provide for the promulgation of rules; and to provide remedies and prescribe penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "bail recovery agent regulation act".

3       Sec. 3. As used in this act:

4       (a) "Absconder" means individual charged with a crime in  
5 this or any other state who is the subject of a recognizance  
6 issued by a surety for the individual's appearance on that  
7 criminal matter.

1       (b) "Bail recovery agent" means an individual who has been  
2 contractually retained as an agent by a surety or who is other-  
3 wise authorized to act on behalf of the surety, with or without  
4 consideration, for the delivery of an absconder to the sheriff or  
5 other peace officer of the jurisdiction in which the recognizance  
6 was entered into for commitment. Bail recovery agent does not  
7 include a surety who is a natural person executing a recognizance  
8 on his or her own behalf.

9       (c) "Department" means the department of state police.

10       (d) "Surety" means an individual or business entity that has  
11 entered into a recognizance as a surety for the personal appear-  
12 ance of an individual charged with a crime.

13       Sec. 5. (1) An individual shall not act as, attempt to act  
14 as, or represent himself or herself as being a bail recovery  
15 agent unless that individual obtains a license from the depart-  
16 ment under this act.

17       (2) An individual may act or attempt to act as a bail recov-  
18 ery agent only under 1 or more of the following circumstances  
19 based upon the information and belief of the principal:

20       (a) The individual subject to the recognizance has failed to  
21 appear at a scheduled trial or hearing.

22       (b) The absconder has left, is leaving, or is attempting to  
23 leave the jurisdiction.

24       (c) Failure of the sureties submitted by the absconder.

25       (d) Disposition of the property by the absconder or any  
26 other person for the apparent purpose of evading the payment to  
27 the principal.

1       Sec. 7. (1) The department shall issue a license as a bail  
2 recovery agent only to a natural person.

3       (2) An individual seeking licensure as a bail recovery agent  
4 shall do all of the following:

5       (a) Apply to the department on a form supplied by the  
6 department and pay an application fee and a per-year license fee  
7 in the amount determined by the department in rules promulgated  
8 under subsection (6).

9       (b) Be at least 18 years of age.

10       (c) Show proof of the issuance of a bond complying with sec-  
11 tion 9.

12       (d) Supply a copy of the applicant's fingerprints acceptable  
13 to the department.

14       (3) Upon the issuance of a license, the department shall  
15 issue a picture identification card stating the name and any  
16 alias of the licensee, the date of issuance and expiration date  
17 of the license, the name of the entity issuing the bond, and home  
18 address and any business address of the licensee. For a charge  
19 at least \$10.00 but not to exceed the cost of issuance, the  
20 department shall issue a new card to a licensee whose card is  
21 lost or destroyed.

22       (4) A license under this act is valid for a period of 12  
23 months from the date of its issuance and is renewable by filing a  
24 renewal application not less than 30 days before the expiration  
25 date and enclosing the per-year license fee.

26       (5) Within 30 days after a change of home or business  
27 address or identity of the bonding company, the licensee shall

1 notify the department in writing of the change. Upon receipt of  
2 such a change, the department shall enter the change into its  
3 records and send a sticker to the licensee with the corrected  
4 information to be placed on the licensee's identification card.

5 (6) The department shall promulgate rules under the adminis-  
6 trative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
7 24.328, to set fees for application for licensure under this act  
8 and for a per-year license fee. The fees shall be in an amount  
9 determined by the department to cover the actual costs of pro-  
10 cessing the application and issuing the license.

11 Sec. 9. (1) A bail recovery agent shall provide proof of  
12 issuance of a bond in the amount of at least \$100,000.00 for any  
13 damage to innocent parties that may occur in the performance of  
14 his or her activities as a bail recovery agent.

15 (2) The bond shall be issued by a company licensed to do  
16 business in this state and provide that written notice of any  
17 cancellation of coverage be sent to the department within 10  
18 business days of cancellation.

19 Sec. 11. A bail recovery agent shall do all of the  
20 following:

21 (a) Notify by telephone or electronic mail an appropriate  
22 law enforcement agency or the state police post nearest the  
23 locality in which the apprehension is planned at least 30 minutes  
24 in advance of a planned attempt to apprehend an absconder. This  
25 subdivision does not apply if a bail recovery agent is confronted  
26 with an unanticipated opportunity to apprehend an absconder that  
27 would be seriously jeopardized by the delay inherent in providing

1 advanced notice so long as the apprehension can be accomplished  
2 without the use of force against person or property and the bail  
3 recovery agent notifies the law enforcement agency within 60  
4 minutes after the apprehension.

5 (b) Have in his or her possession documentation demonstrat-  
6 ing that he or she has been retained or authorized by the surety  
7 to execute the recognizance.

8 (c) Have in his or her possession his or her license issued  
9 under this act and at least 1 picture identification other than  
10 the licensee identification issued under this act. This picture  
11 identification shall be an operator's or chauffeur's license or  
12 an official identification issued by this or any other state.

13 Sec. 13. A person determined by a court of competent juris-  
14 diction to have done any of the following is responsible for a  
15 state civil infraction and subject to a fine of not more than  
16 \$1,000.00:

17 (a) Acted as, attempted to act as, or represented himself or  
18 herself as being a bail recovery agent without being licensed  
19 under this act.

20 (b) Knowingly possessed an altered or forged bail recovery  
21 agent identification card or license or knowingly altered or  
22 forged a bail recovery agent identification card or license.

23 (c) While licensed under this act, violated section 11(a),  
24 (b), or (c).

25 Sec. 15. After a notice and an opportunity for a hearing  
26 under the administrative procedures act of 1969, 1969 PA 306, MCL  
27 24.201 to 24.328, the department may suspend or revoke a license

1 issued under this act upon receiving a state civil infraction  
2 determination of responsibility for a violation of this act.

3       Sec. 17. The sanctions and remedies under this act are  
4 independent and cumulative. The use of a remedy or the imposi-  
5 tion of a sanction under this act does not bar other lawful reme-  
6 dies and does not limit criminal and civil liability.

7       Enacting section 1. This act takes effect January 1, 1998.

8       Enacting section 2. This act does not take effect unless  
9 Senate Bill No. 821

10                       of the 89th Legislature is enacted into law.