

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 183
Judiciary

(Delegate Cardin)

Criminal Procedure - Bail Bondsmen - Apprehension of Defendant

This bill prohibits a bail bondsman or an agent of a bail bondsman from entering a building, apartment, premises, place, or thing to be searched in order to apprehend an individual unless the bail bondsman or agent gives notice of the bail bondsman’s or agent’s authority or purpose. “Bail bondsman” means a licensed limited surety agent or a licensed professional bail bondsman. An “agent” means a person that acts or is authorized to act as the representative of a bail bondsman.

Fiscal Summary

State Effect: The bill is not expected to have a material effect on State finances or operations, as discussed below.

Local Effect: The bill is not expected to have a material effect on local finances or operations, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Current Law: While there are statutory provisions regarding entry into a residence or location by law enforcement, there are no comparable provisions for bail bondsmen or their agents. In *Taylor v. Taintor*, 83 U.S. 366, 371-72 (1872), the U.S. Supreme Court noted in dicta that:

When bail is given, the principal is regarded as delivered to the custody of his sureties. Their dominion is a continuance of the original imprisonment.

Whenever they choose to do so, they may seize him and deliver him up in their discharge; and if that cannot be done at once, they may imprison him until it can be done. They may exercise their rights in person or by agent. They may pursue him into another state; may arrest him on the Sabbath, and, if necessary, may break and enter his house for that purpose. The seizure is not made by virtue of new process. None is needed. It is likened to the rearrest by the sheriff of an escaping prisoner.

A corporate surety bail bondsman must be licensed by the Maryland Insurance Administration and have an appointment from a surety insurance company. The Insurance Commissioner may deny a license or discipline a corporate surety bail bondsman for a variety of reasons, including the willful violation of a State insurance law or any fraudulent or dishonest practice in the insurance business.

State/Local Fiscal Effect: Existing bail bond agreements may contain provisions that address the authority of a surety and the surety's designees to enter a residence or other property owned or occupied by the defendant without notice for purposes of apprehending the defendant. The bill's prohibitions may affect court proceedings and operations related to bond forfeitures and failures to appear. Any impact is not anticipated to be material and can be addressed with existing budgeted resources. Any additional enforcement can likewise be handled with existing budgeted resources.

Small Business Effect: The bill may have a meaningful effect on bail bondsmen and their agents who utilize the tactics prohibited under the bill to apprehend criminal defendants for whom they have issued bail bonds.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore, Garrett, and Howard counties; City of Laurel; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - January 19, 2022
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