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February 14, 2013

AS AMENDED

SENATE BILL NO. 1013

By: Shortey of the Senate

and

Joyner of the House

[professions and occupations - Bail Enforcement and Licensing Act - bail bondsmen - private investigators, security guards, and CLEET - nonresident bail enforcers - codification - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Bail Enforcement and Licensing Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Bail Enforcement and Licensing Act:

1. "Armed bail enforcer" means a bail enforcer having a valid license issued by the Council on Law Enforcement Education and

1 Training authorizing the holder to carry an approved pistol or
2 offensive weapon in the recovery of a defendant pursuant to the Bail
3 Enforcement and Licensing Act;

4 2. "Bail enforcer" means a person who acts, engages in,
5 solicits or offers services to:

6 a. execute a prior to breach recovery of a defendant on
7 an undertaking or bail bond contract, or

8 b. execute a recovery of a defendant for failure to
9 appear on an undertaking or bail bond contract issued
10 in this state, another state or the United States.

11 The term "bail enforcer" does not include any law enforcement
12 officer actively employed by a law enforcement agency recognized in
13 this state, or any of its political subdivisions, another state or
14 the United States, while such officer is engaged in the lawful
15 performance of duties authorized by his or her employing law
16 enforcement agency or a bondsman licensed in this state and acting
17 under the authority of his or her undertaking or bail contract;

18 3. "Bail recovery agency" means any self-employed individual
19 who performs the services of a bail enforcer for a client, or a sole
20 proprietor, partnership, firm, corporation or other private legal
21 entity that employs or contracts with one or more individuals to
22 perform the services of a bail enforcer. Only a bail recovery agency
23 licensed by the Council may enter into a client contract to perform
24 the services of a bail enforcer. A bail recovery agency is liable

1 for its acts and omissions and those of its employees and
2 contractors while executing a recovery of a defendant pursuant to a
3 client contract;

4 4. "Client" means a bondsman or surety on an undertaking or
5 bail bond contract issued in this state, another state or the United
6 States that enters into a contract for the services of a bail
7 enforcer;

8 5. "Council" or "CLEET" means the Council on Law Enforcement
9 Education and Training;

10 6. "Defendant" means the principal on an undertaking or bail
11 bond contract;

12 7. "License" means authorization issued by the Council pursuant
13 to the Bail Enforcement and Licensing Act permitting the holder to
14 perform functions and services as a bail enforcer or bail recovery
15 agency;

16 8. "Offensive weapon" means taser, stun gun, baton, night
17 stick, or toxic substances as defined in paragraph 10 of this
18 subsection;

19 9. "Recovery" or "surrender" means the presentation of a
20 defendant to the public officer competent to receive the defendant
21 into custody; and

22 10. "Toxic substance" means pepper spray or mace.
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1 SECTION 3. NEW LAW

2 A new section of law to be codified
3 in the Oklahoma Statutes as Section 1350.2 of Title 59, unless there
4 is created a duplication in numbering, reads as follows:

5 A. On and after March 1, 2014, no person shall act or engage
6 in, solicit or offer services, or represent himself or herself, as a
7 bail enforcer or bail recovery agency as defined by the Bail
8 Enforcement and Licensing Act without first having been issued a
9 valid license by the Council on Law Enforcement Education and
10 Training.

11 B. On or after March 1, 2014, any person who shall act or
12 engage in, solicit or offer services, or represent himself or
13 herself, as a bail enforcer or bail recovery agency without a valid
14 license issued by the Council shall be guilty of a felony, upon
15 conviction, punishable by a fine in an amount not exceeding Ten
16 Thousand Dollars (\$10,000.00), or by imprisonment in the custody of
17 the Department of Corrections for a term of not more than three (3)
18 years, or by both such fine and imprisonment.

19 C. Any person violating the provisions of subsection B of this
20 section while having in his or her possession or under his or her
21 control any firearm or offensive weapon, including a firearm under
22 the authority of the Oklahoma Self-Defense Act, shall be punished,
23 upon conviction, by an additional fine in an amount not exceeding
24 Five Thousand Dollars (\$5,000.00), or by an additional term of
25 imprisonment up to three (3) years, or by both such fine and

1 imprisonment. In addition, the authority to carry the firearm may
2 be permanently revoked by the issuing authority.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1350.3 of Title 59, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Any person who is prohibited from being licensed as a bail
7 bondsman as provided in subsection A of Section 1315 of Title 59 of
8 the Oklahoma Statutes shall be prohibited from being licensed as a
9 bail enforcer or bail recovery agency pursuant to the Bail
10 Enforcement and Licensing Act. In addition, a district attorney, or
11 any employee of an office of a district attorney, or any employee of
12 the Department of Corrections shall be prohibited from being
13 licensed as a bail enforcer or bail recovery agency.

14 B. Nothing in the Bail Enforcement and Licensing Act shall be
15 construed to prohibit a bail bondsman, private investigator or
16 security guard licensed in this state from being dual-licensed
17 pursuant to the Bail Enforcement and Licensing Act.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1350.4 of Title 59, unless there
20 is created a duplication in numbering, reads as follows:

21 A. It shall be unlawful for any person whose license as a bail
22 enforcer or bail recovery agency has been suspended, revoked,
23 surrendered or denied, to perform, or assist in the performance of,
24 any function or service as a bail enforcer or bail recovery agency.

1 B. It shall be unlawful for a bail enforcer or bail recovery
2 agency licensed in this state to assist, aid or conspire with an
3 unlicensed person, or a person whose license as a bail enforcer or
4 bail recovery agency or bail bondsman has been suspended, revoked,
5 surrendered or denied, to engage in any function or service as a
6 bail enforcer.

7 C. Any violation of this section shall be a violation of the
8 Bail Enforcement and Licensing Act which is punishable as provided
9 in Section 3 of this act.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1350.5 of Title 59, unless there
12 is created a duplication in numbering, reads as follows:

13 A. Notwithstanding any provision in Section 643 of Title 21 of
14 the Oklahoma Statutes, the use or attempt to use force by a bail
15 enforcer in the recovery of a defendant as defined in the Bail
16 Enforcement and Licensing Act is prohibited when unnecessarily
17 committed or when the force is excessive or unreasonable in manner,
18 degree or duration.

19 B. Every bail enforcer shall be trained on the use of force
20 continuum and the rules for use of force promulgated for the Bail
21 Enforcement and Licensing Act.

22 C. No force shall be authorized which is more than sufficient
23 to temporarily restrain a defendant who has refused to obey a lawful
24 command to surrender to the bail enforcer. The duration and manner

1 of any force used by a bail enforcer shall be only that reasonably
2 necessary to surrender the defendant to the public officer competent
3 to receive such person into custody.

4 D. Any force used by a bail enforcer in self-defense while
5 recovering a defendant or to defend another from injury or threat of
6 injury while recovering a defendant shall be not more than
7 sufficient to prevent an offense.

8 E. Any force deemed by the district attorney to be
9 unnecessarily committed or excessive or unreasonable in manner,
10 degree or duration may be prosecuted as a crime committed without
11 justification or excusable cause under an existing provision of law.

12 SECTION 7. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1350.6 of Title 59, unless there
14 is created a duplication in numbering, reads as follows:

15 Notwithstanding any other provision of law, it shall be unlawful
16 for a bail enforcer to break into and enter the dwelling house of
17 any defendant or third-party for purposes of recovery or attempted
18 recovery of a defendant either:

19 1. By forcibly bursting or breaking the wall, or an outer door,
20 window, or shutter of a window of such house or the lock or bolts of
21 such door, or the fastening of such window or shutter;

22 2. By breaking in any other manner, being armed with a
23 dangerous weapon or being assisted or aided by one or more persons
24 then actually present; or

1 3. By unlocking an outer door by means of false keys or by
2 picking the lock thereof, or by lifting a latch or opening a window.

3 A person violating the provisions of this section shall be
4 guilty of burglary in the first degree and, upon conviction,
5 punished as provided in Section 1436 of Title 21 of the Oklahoma
6 Statutes.

7 SECTION 8. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1350.7 of Title 59, unless there
9 is created a duplication in numbering, reads as follows:

10 A. The Director of the Council on Law Enforcement Education and
11 Training, and any staff member designated by the Director, shall
12 have all the powers and authority of peace officers of this state
13 for the purposes of enforcing the provisions of the Bail Enforcement
14 and Licensing Act, and all other duties which are or may be
15 conferred upon the Council by the Bail Enforcement and Licensing
16 Act. The powers and duties conferred on the Director or any staff
17 member appointed by the Director as a peace officer shall not limit
18 the powers and duties of other peace officers of this state or any
19 political subdivision thereof. Nothing in the Bail Enforcement and
20 Licensing Act shall be construed to restrict the Director from
21 appointing the same staff members as peace officers to enforce both
22 the Oklahoma Security Guard and Private Investigator Act and the
23 Bail Enforcement and Licensing Act.

24 B. The Council shall have the following powers and duties:

1 1. To promulgate rules and forms to implement, enforce and
2 carry out the purposes of the Bail Enforcement and Licensing Act;

3 2. To establish and enforce standards governing the training of
4 persons required to be licensed pursuant to the Bail Enforcement and
5 Licensing Act with respect to:

6 a. issuing, denying, or revoking certificates of approval
7 to bail enforcement training schools, and programs
8 administered by the state, a county, a municipality, a
9 private corporation, or an individual,

10 b. certifying instructors at approved bail enforcement
11 training schools,

12 c. establishing minimum requirements for bail enforcement
13 training schools and periodically reviewing these
14 standards, and

15 d. providing for periodic inspection of all bail
16 enforcement training schools or programs;

17 3. To establish minimum curriculum requirements for training as
18 the Council may require for bail enforcers, armed bail enforcers and
19 bail recovery agencies. Training requirements for unarmed bail
20 enforcers shall be not less than forty (40) hours of instruction
21 which shall be in addition to the Phase I, II, and III training
22 requirements. Training requirements for armed bail enforcers shall
23 be the same as for unarmed bail enforcers plus Phase IV firearm and
24 offensive weapons training;

1 4. To establish minimum requirements for a mandatory continuing
2 education program for all licensed bail enforcers and bail recovery
3 agencies which shall include, but not be limited to:

4 a. establishing a designated minimum number of clock
5 hours of required attendance, not less than twenty-
6 four (24) clock hours during the licensing period, at
7 accredited educational functions,

8 b. establishing the penalties to be imposed upon a
9 licensee for failure to comply with the continuing
10 education requirements, and

11 c. providing that the expense of such continuing
12 education shall be paid by the licensee participating
13 therein;

14 5. To grant a waiver of any training requirement, except
15 firearms training and offensive weapons training which shall be
16 required for an armed bail enforcer license, unless the applicant
17 has completed at least one (1) year of full-time employment as an
18 armed security guard, armed private investigator, or CLEET-certified
19 law enforcement officer within the three-year period immediately
20 preceding the date of application and the applicant provides
21 sufficient documentation thereof as may be required by the Council;

22 6. To grant an applicant credit for fulfilling any prescribed
23 course or courses of training, including firearms training, upon
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1 submission of acceptable documentation of comparable training. The
2 Council may grant or refuse any such credit at its discretion;

3 7. To issue the licenses and identification cards provided for
4 in the Bail Enforcement and Licensing Act;

5 8. To investigate alleged violations of the Bail Enforcement
6 and Licensing Act, or rules promulgated pursuant thereto, and to
7 deny, suspend, or revoke licenses and identification cards if
8 necessary, or to issue notices of reprimand to licensees with or
9 without probation under the rules promulgated by the Council;

10 9. To investigate alleged violations of the Bail Enforcement
11 and Licensing Act by persons not licensed in this state as bail
12 enforcers and to impose administrative sanctions pursuant to rule,
13 to seek injunctions pursuant to Section 1750.2A of Title 59 of the
14 Oklahoma Statutes, or seek criminal prosecution, or any and all of
15 the foregoing;

16 10. To provide all forms for applications, identification
17 cards, and licenses required by the Bail Enforcement and Licensing
18 Act;

19 11. To immediately suspend a license if a licensee's actions
20 present a danger to the licensee or to the public; and

21 12. To require additional testing for continuation or
22 reinstatement of a license if a licensee exhibits an inability to
23 exercise reasonable judgment, skill, or safety.
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1 C. The Council shall use staff and resources established for
2 the Oklahoma Security Guard and Private Investigator Act to
3 implement, administer and enforce the Bail Enforcement and Licensing
4 Act and may additionally use funds available from the CLEET Bail
5 Enforcement Revolving Fund created pursuant to Section 21 of this
6 act for necessary financial support for the Bail Enforcement and
7 Licensing Act.

8 D. Nothing in the Bail Enforcement and Licensing Act or the
9 Oklahoma Security Guard and Private Investigator Act shall be
10 construed to prohibit the Council from authorizing approved training
11 schools or individuals to conduct combined education or training for
12 security guards, private investigators and bail enforcers, including
13 Phases I, II, III and IV training.

14 SECTION 9. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1350.8 of Title 59, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Each applicant for a bail enforcer license shall be
18 administered any current standard form of the Minnesota Multiphasic
19 Personality Inventory (MMPI), or other psychological evaluation
20 instrument approved by the Council on Law Enforcement Education and
21 Training, which shall be administered in conjunction with training
22 in Phase I required by the Bail Enforcement and Licensing Act. The
23 bail enforcer training school administering such instrument shall
24 forward the response data to a psychologist licensed by the State

1 Board of Examiners of Psychologists for evaluation. The licensed
2 psychologist shall be of the applicant's choice. It shall be the
3 responsibility of the applicant to bear the cost of the
4 psychological evaluation. No bail enforcer license shall be issued
5 unless the applicant meets the standards established by the Council
6 for psychological evaluation.

7 B. If the licensed psychologist is unable to certify the
8 applicant's psychological capability to exercise appropriate
9 judgment, restraint, and self-control, after evaluating the data,
10 the psychologist shall employ whatever other psychological measuring
11 instruments or techniques deemed necessary to form a professional
12 opinion. The use of any psychological measuring instruments or
13 techniques shall require a full and complete written explanation to
14 the Council.

15 C. The psychologist shall forward a written psychological
16 evaluation, on a form prescribed by the Council, to the Council
17 within fifteen (15) days of the evaluation, even if the applicant is
18 found to be psychologically at risk. The Council may utilize the
19 results of the psychological evaluation for up to six (6) months
20 from the date of the evaluation after which the applicant shall be
21 reexamined. No person who has been found psychologically at risk in
22 the exercise of appropriate judgment, restraint, or self-control
23 shall reapply for certification until one (1) year from the date of
24 being found psychologically at risk.

1 D. 1. Retired peace officers who have been certified by the
2 Council shall be exempt from the provisions of this section for a
3 period of one (1) year from retirement; provided there is no
4 evidence of an inability to exercise appropriate judgment,
5 restraint, and self-control during prior active duty as a law
6 enforcement officer and upon subsequent retirement.

7 2. Retired peace officers who are not exempt from this section
8 and who have previously undergone treatment for a mental illness,
9 condition, or disorder which required medication or supervision, as
10 defined by paragraph 7 of Section 1290.10 of Title 21 of the
11 Oklahoma Statutes, shall not be eligible to apply for a bail
12 enforcer license except upon presentation of a certified statement
13 from a licensed physician stating that the person is no longer
14 disabled by any mental or psychiatric illness, condition, or
15 disorder.

16 SECTION 10. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1350.9 of Title 59, unless there
18 is created a duplication in numbering, reads as follows:

19 A. A bail enforcer license, an armed bail enforcer license, or
20 a bail recovery agency license may be issued to an applicant meeting
21 the following qualifications. The applicant shall:

22 1. Be a citizen of the United States or an alien legally
23 residing in the United States and have a minimum of six (6) months
24 legal residence documented in this state;

2. Be at least twenty-one (21) years of age;

3. Have a high school diploma or GED and have successfully completed the training and psychological evaluation requirements for the license applied for, as prescribed by the Council on Law Enforcement Education and Training;

4. Be of good moral character;

5. Have no final victim protection orders issued in any state as a defendant;

6. Have no record of a felony conviction or any expungement or a deferred judgment or suspended sentence for a felony offense;

7. Have no record of conviction for assault or battery, aggravated assault or battery, larceny, theft, false pretense, fraud, embezzlement, false personation of an officer, any offense involving moral turpitude, any offense involving a minor as a victim, any nonconsensual sex offense, any offense involving the possession, use, distribution, or sale of a controlled dangerous substance, any offense of driving while intoxicated or driving under the influence of intoxicating substance, any offense involving a firearm, or any other offense as prescribed by the Council.

a. If any conviction which disqualifies an applicant occurred more than five (5) years prior to the application date and the Council is convinced the offense constituted an isolated incident and the applicant has been rehabilitated, the Council may, in

1 its discretion, waive the conviction disqualification
2 as provided for in this paragraph and issue an unarmed
3 bail enforcer license, but shall not issue an armed
4 bail enforcer license if the offense involved the use
5 of a firearm, was violent in nature, or was a felony
6 offense other than a driving offense.

7 b. Under oath, the applicant shall certify that he or she
8 has no disqualifying convictions as specified in the
9 Bail Enforcement and Licensing Act or by rule of the
10 Council.

11 c. The applicant shall further meet all other
12 qualifications, including, but not limited to, the
13 requirement to provide CLEET and the Oklahoma State
14 Bureau of Investigation with individual fingerprints
15 for a state and national criminal history records
16 search and a current individual photograph with the
17 completed CLEET application for a bail enforcer
18 license.

19 d. If upon completion of the required background
20 investigation it is discovered that a disqualifying
21 conviction exists, the Council shall immediately
22 revoke or deny the bail enforcer license of the
23 applicant;
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1 8. Make a statement that the applicant is not currently
2 undergoing treatment for a mental illness, condition, or disorder,
3 make a statement whether the applicant has ever been adjudicated
4 incompetent or committed to a mental institution, and make a
5 statement regarding any history of illegal drug use or alcohol
6 abuse. Upon presentation by the Council of the name, gender, date
7 of birth, and address of the applicant to the Department of Mental
8 Health and Substance Abuse Services, the Department of Mental Health
9 and Substance Abuse Services shall notify the Council within ten
10 (10) days whether the computerized records of the Department
11 indicate the applicant has ever been involuntarily committed to an
12 Oklahoma state mental institution. For purposes of this subsection,
13 "currently undergoing treatment for a mental illness, condition, or
14 disorder" means the person has been diagnosed by a licensed
15 physician or psychologist as being afflicted with a substantial
16 disorder of thought, mood, perception, psychological orientation, or
17 memory that significantly impairs judgment, behavior, capacity to
18 recognize reality, or ability to meet the ordinary demands of life
19 and such condition continues to exist;

20 9. Make a statement regarding any misdemeanor domestic violence
21 charges;

22 10. Provide proof of liability insurance or an individual bond
23 in a minimum amount established by the Bail Enforcement and
24 Licensing Act; and

1 11. Provide proof of a verifiable offer of employment by a
2 licensed bail recovery agency conditioned upon the issuance of a
3 valid bail enforcer license, or a statement of self-employment as a
4 sole proprietor bail recovery agency.

5 B. A bail recovery agency license may be issued to an
6 individual, partnership, firm, corporation, or other legal entity
7 meeting all the individual requirements for a bail enforcer and the
8 following:

9 1. If the license is to be issued in the name of a legal entity
10 other than a natural person, the applicant must furnish proof that
11 the entity is legally recognized and qualified to conduct business
12 in this state, such as the issuance of a corporate charter;

13 2. Any person, otherwise qualified, may own a bail recovery
14 agency;

15 3. A self-employed bail enforcer who employs no other bail
16 enforcers must be licensed as a bail recovery agency;

17 4. A bail recovery agency shall be required to maintain a
18 physical place of business in this state and the business name,
19 physical address and phone number shall be publically available and
20 published in the city or county where the physical address is
21 located;

22 5. Only a licensed bail recovery agency may accept a client
23 contract to perform the services of a bail enforcer;

1 6. The executive officer or owner of the business operations
2 for a bail recovery agency shall be a resident of this state and
3 shall be required to:

- 4 a. maintain and furnish a current list of all persons
5 acting as bail enforcers for the agency, including
6 both employees and contract self-employed bail
7 enforcers/bail recovery agencies, and agree to notify
8 the Council of each termination, hire or new
9 contractor, within the time period and manner
10 specified by the rules promulgated for the Bail
11 Enforcement and Licensing Act, and
- 12 b. maintain complete records of all clients, defendants
13 and apprehensions, and agree such records shall be
14 available to CLEET for inspection at any time during
15 regular business hours; and

16 7. A natural person seeking a bail recovery agency license
17 shall not have had his or her bail enforcer license denied,
18 suspended or revoked and shall not have had any investigative agency
19 license, or private investigator, security guard or bail bondsman
20 license, or law enforcement certification, denied, suspended or
21 revoked.

22 C. 1. All bail enforcers and bail recovery agencies shall
23 obtain and maintain either a liability insurance policy or a surety
24 bond that allows persons to recover for actionable injuries, loss,

1 or damage as a result of the willful, or wrongful acts or omissions
2 of the principal licensee and protects this state, its agents,
3 officers and employees from judgments against the principal
4 licensee, and is further conditioned upon the faithful and honest
5 conduct of the principal's business.

6 2. The liability insurance policy or surety bond required in
7 this subsection shall be in the minimum amount of Ten Thousand
8 Dollars (\$10,000.00).

9 3. A bail recovery agency shall ensure that all its employees
10 and contractors have met the minimum liability insurance or surety
11 bond requirements.

12 4. Liability insurance policies or bonds issued pursuant to
13 this subsection shall not be modified or canceled unless ten (10)
14 days' prior written notice is given to the Council. All persons and
15 agencies insured or bonded pursuant to this subsection shall be
16 insured by an insurance carrier or bonded by a surety company
17 licensed and authorized to do business in the state. Failure to
18 obtain and maintain sufficient liability insurance or bond as
19 provided in the Bail Enforcement and Licensing Act shall be grounds
20 for revocation of a license.

21 D. Upon written notice, any license may be placed on inactive
22 status.

1 E. Similar or duplicate bail recovery agency names will not be
2 issued. Each bail recovery agency name must be distinguishably
3 different.

4 SECTION 11. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1350.10 of Title 59, unless
6 there is created a duplication in numbering, reads as follows:

7 A. 1. Application for a bail enforcer or bail recovery agency
8 license shall be made on forms provided by the Council on Law
9 Enforcement Education and Training and shall be submitted in writing
10 by the applicant under oath. The application shall require the
11 applicant to furnish information reasonably required by the Council
12 to implement the provisions of the Bail Enforcement and Licensing
13 Act, including classifiable fingerprints to enable the search of
14 criminal indices for evidence of a prior criminal record, including,
15 but not limited to, a national criminal history record check as
16 defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

17 2. Upon request of the Council, the Oklahoma State Bureau of
18 Investigation and other state and local law enforcement agencies
19 shall furnish a copy of any existent criminal history data relating
20 to an applicant to enable the Council to determine the
21 qualifications and fitness of such applicant for a license.

22 B. 1. On and after March 1, 2014, the original application and
23 any license renewal shall be accompanied by a fee of:
24

- a. Three Hundred Dollars (\$300.00) for an unarmed bail enforcer license who has verifiable employment with a licensed bail recovery agency,
- b. Four Hundred Dollars (\$400.00) for an armed bail enforcer license who has verifiable employment with a bail recovery agency,
- c. Five Hundred Dollars (\$500.00) for a self-employed bail enforcer/bail recovery agency license, or
- d. Six Hundred Dollars (\$600.00) for a bail recovery agency license issued to a legal business entity that employs or contracts with one or more licensed bail enforcers.

If an individual or agency does not qualify for the type of license or renewal license requested, the Council shall retain twenty percent (20%) of the licensing fee as a processing fee and refund the remaining amount to the individual or agency submitting payment. The individual license fee paid by a licensed agency will be refunded to the agency. In addition to the fees provided in this subsection, the original application for a bail enforcer license shall be accompanied by a nonrefundable fee for a national criminal history record check with fingerprint analysis, as provided in Section 150.9 of Title 74 of the Oklahoma Statutes.

2. A licensee whose license has been suspended may apply for reinstatement of license after the term of the suspension has

1 passed, if otherwise qualified. Any application for reinstatement
2 following a suspension of licensure shall be accompanied by a
3 nonrefundable fee of:

- 4 a. One Hundred Dollars (\$100.00) for the reinstatement of
5 an unarmed bail enforcer license,
- 6 b. One Hundred Fifty Dollars (\$150.00) for an armed bail
7 enforcer license, and
- 8 c. Two Hundred Dollars (\$200.00) for a self-employed bail
9 enforcer/bail recovery agency or a bail recovery
10 agency license.

11 A revoked license shall not be reinstated.

12 3. A licensee who fails to file a renewal application on or
13 before the expiration of a license shall pay a late fee of Fifty
14 Dollars (\$50.00) for an individual bail enforcer license and a late
15 fee of One Hundred Dollars (\$100.00) for an bail recovery agency
16 license.

17 4. The fees charged and collected, including portions of fees
18 retained as processing fees, pursuant to the provisions of this
19 section shall be deposited to the credit of the CLEET Bail
20 Enforcement Revolving Fund created pursuant to Section 21 of this
21 act.

22 C. On and after March 1, 2014, a bail enforcer license or armed
23 bail enforcer license shall be valid for a period of three (3) years
24 and may be renewed for additional three-year terms. A bail recovery

1 agency license shall be valid for a period of three (3) years and
2 may be renewed for additional three-year terms.

3 D. The Council shall devise a system for issuance of licenses
4 for the purpose of evenly distributing the expiration dates of the
5 licenses.

6 E. Pursuant to rule, the Council may issue a duplicate license
7 to a person licensed pursuant to the provisions of the Bail
8 Enforcement and Licensing Act. On and after March 1, 2014, the
9 Council may assess a fee of Twenty-five Dollars (\$25.00) for the
10 issuance of a duplicate license. The fee shall accompany the
11 request for a duplicate license. All duplicate license fees shall
12 be deposited to the credit of the CLEET Bail Enforcement Revolving
13 Fund created pursuant to Section 21 of this act.

14 SECTION 12. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1350.11 of Title 59, unless
16 there is created a duplication in numbering, reads as follows:

17 A. A bail enforcer license, armed bail enforcer license or bail
18 recovery agency license shall be subject to denial, suspension, or
19 revocation and/or disciplinary action or administrative fine by the
20 Council on Law Enforcement Education and Training subject to the
21 Administrative Procedures Act for, but not limited to, the following
22 reasons by clear and convincing evidence:
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1 1. Any erroneous or false statement in an application for a
2 license submitted pursuant to the Bail Enforcement and Licensing Act
3 or rules promulgated pursuant thereto;

4 2. Failure to successfully complete any prescribed phase or
5 course of training as required by the Council;

6 3. Violation of any provision of the Bail Enforcement and
7 Licensing Act or any rule promulgated pursuant thereto;

8 4. A conviction for assault or battery, aggravated assault or
9 battery, larceny, theft, false pretense, fraud, embezzlement, false
10 personation of an officer, any offense involving moral turpitude,
11 any offense involving a minor as a victim, any nonconsensual sex
12 offense, any offense involving the possession, use, distribution, or
13 sale of a controlled dangerous substance, any offense of driving
14 while intoxicated or driving under the influence of intoxicating
15 substance, any offense involving a firearm, or any other offense as
16 proscribed by the Council;

17 5. Use of beverages containing alcohol while armed with a
18 firearm;

19 6. Knowingly impersonating a law enforcement officer;

20 7. Improper use of force pursuant to the Bail Enforcement and
21 Licensing Act;

22 8. Failure to carry and possess proper license, identification
23 or documents required by the Bail Enforcement and Licensing Act or
24 any rules promulgated pursuant thereto;

1 9. Improper apparel or vehicle as required pursuant to the Bail
2 Enforcement and Licensing Act;

3 10. Improper carry, display or use of a firearm, offensive
4 weapon or toxic substance;

5 11. Improper entry into a dwelling house, structure, property
6 or vehicle or improper detention of any person;

7 12. Employing, authorizing, or permitting an unlicensed person
8 to perform or engage in services as a bail enforcer; or

9 13. Permitting a person to perform or engage in services as a
10 bail enforcer knowing the person has committed any offense
11 prohibited by the Bail Enforcement and Licensing Act.

12 B. Upon the effective date of suspension or revocation of any
13 license pursuant to the Bail Enforcement and Licensing Act, the
14 licensee shall have the duty to surrender the license and any
15 identification card issued pursuant thereto to the Council.

16 SECTION 13. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1350.12 of Title 59, unless
18 there is created a duplication in numbering, reads as follows:

19 A. The words "police", "deputy", "detective", "officer",
20 "agent", or "investigator" shall not be displayed upon any bail
21 enforcer badge, uniform, or vehicle. It shall be unlawful for any
22 person to mark any vehicle, wear any apparel, or display any badge
23 or identification card bearing the words "Fugitive Agent", "Recovery
24 Agent", "Enforcement Officer", "Bounty Hunter", "Bail Agent", or

1 "Recovery Detective" or use any other words or phrases that imply
2 that such person is associated with law enforcement or a government
3 agency, as an agent, officer, deputy, detective or police. Any
4 violation shall be a violation of the Bail Enforcement and Licensing
5 Act which is punishable as provided in Section 3 of this act and in
6 addition the violator may be prosecuted for false impersonation of
7 an officer.

8 SECTION 14. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1350.13 of Title 59, unless
10 there is created a duplication in numbering, reads as follows:

11 No person licensed as a bail enforcer or bail recovery agency
12 shall:

13 1. Invade the privacy of a defendant without lawful authority
14 or divulge any information gained by him or her in the course of
15 employment except as the employer or client may direct as permitted
16 by law, or as may be required by law to be disclosed;

17 2. Willfully make a false report to his or her employer or to a
18 client;

19 3. Attempt any location, recovery or surrender of a defendant
20 without having in his or her possession a written client contract;

21 4. Attempt any location, recovery or surrender of a defendant
22 without having in his or her possession a certified copy of the
23 undertaking or bail bond contract;

24

1 5. Mark or wear any apparel, badges, shields, ballistic vest or
2 helmet which would imply to the public that the person is a law
3 enforcement officer or represents a law enforcement or government
4 agency; provided, however, a ballistic vest may be worn concealed
5 under clothing;

6 6. Carry any firearm or offensive weapon in the recovery of a
7 defendant without a valid armed bail enforcer license, or carry any
8 firearm or offensive weapon when wearing bail enforcer apparel and
9 not actively engaged in the recovery of a defendant;

10 7. Point, display or discharge a firearm or offensive weapon or
11 administer a toxic substance as defined by the Bail Enforcement and
12 Licensing Act in the recovery of a defendant without lawful
13 authority and training as provided by the rules promulgated by the
14 Council on Law Enforcement Education and Training;

15 8. Wear any uniform or use any title, insignia, badge or
16 identification card or make any statements that would lead a person
17 to believe that he or she is connected in any way with the federal
18 government, a state government, or any political subdivision of a
19 state government, or to permit an employee to do such prohibited
20 acts, unless lawfully authorized by proper authorities to do so;

21 9. Improperly enter into the dwelling house, structure,
22 property or vehicle of a defendant or third party;

23 10. Improperly use force against a defendant or third party;
24

1 11. Disobey any local ordinance, state or federal law,
2 including traffic laws, in attempting to locate, recover or
3 surrender a defendant;

4 12. Use a fictitious name in the recovery of a defendant;

5 13. Contract with any person or entity to receive money,
6 valuable consideration or notoriety, directly or indirectly, from
7 any source for the right to record, film or publish an actual
8 recovery of a defendant;

9 14. Use or modify any vehicle for purposes of bail enforcement
10 that resembles or bears markings or exterior equipment similar to
11 those markings or equipment of an authorized law enforcement agency
12 in this state, or any of its political subdivisions, or that bear
13 any fictitious name, emblems, stickers, seals or design that would
14 imply to the public that the vehicle is a law enforcement vehicle
15 from this state, another state, any political subdivision of a
16 state, the United States, or another country or territory; or

17 15. Disobey any rules promulgated for the Bail Enforcement and
18 Licensing Act.

19 A violation of any provision of this subsection shall be
20 punishable as provided in Section 3 of this act. In addition, the
21 Council may suspend or revoke the license of the bail enforcer or
22 bail recovery agency as provided by the rules promulgated pursuant
23 to the Bail Enforcement and Licensing Act.

1 SECTION 15. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1350.14 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 The Council on Law Enforcement Education and Training or its
5 employees shall not disclose application information pertaining to
6 applicants or persons licensed pursuant to the Bail Enforcement and
7 Licensing Act, except:

8 1. To verify the current license status of an applicant or
9 licensee to the public;

10 2. As may be necessary to perform duties or comply with rules
11 or law pursuant to the Bail Enforcement and Licensing Act;

12 3. To a bona fide law enforcement agency or judicial authority,
13 upon request;

14 4. To an insurance company licensed in this state for purposes
15 of issuing a bond for licensure or for claims purposes;

16 5. To provide the published business name, address and phone
17 number, upon request by the public, of any licensed bail recovery
18 agency in the state; or

19 6. As required by court order.

20 SECTION 16. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1350.15 of Title 59, unless
22 there is created a duplication in numbering, reads as follows:

23 A. Each bail enforcer licensed pursuant to the Bail Enforcer
24 and Licensing Act shall carry a valid driver license or state-issued

1 photo identification card and an identification card issued by the
2 Council on Law Enforcement Education and Training at all times while
3 performing the functions and services of a bail enforcer in this
4 state. Each bail recovery agency shall display in its primary
5 office in this state a valid license therefor issued by the Council.

6 B. 1. Each discharge of a firearm by any person during the
7 recovery or surrender of a defendant pursuant to the Bail
8 Enforcement and Licensing Act shall be immediately reported to the
9 law enforcement agency having jurisdiction where such firearm was
10 discharged.

11 2. Each discharge of a firearm, taser or stun gun, or the use
12 of an offensive weapon or any toxic substance as defined in the bail
13 Enforcement and Licensing Act shall be reported to the Council, and
14 if the bail enforcer is an employee of or contractor with a bail
15 recovery agency, it shall be reported to the bail recovery agency
16 who shall keep records of all such occurrences.

17 SECTION 17. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1350.16 of Title 59, unless
19 there is created a duplication in numbering, reads as follows:

20 A. The words "Bail Enforcer", or such words used in conjunction
21 with the bail recovery agency's legal name, shall be displayed in
22 bold letters together with the person's valid state-issued license
23 number on any badge or uniform used by a bail enforcer in this
24 state.

1 B. Vehicles used by a bail enforcer or a bail recovery agency
2 pursuant to the Bail Enforcement and Licensing Act, if marked, must
3 bear the words "Bail Enforcer", or such words used in conjunction
4 with the agency's legal name, address and phone number in
5 conspicuous letters. No such vehicle shall be equipped with a
6 siren, a lamp with a red or blue lens, or an overhead light or
7 lights with red or blue lens.

8 C. Any violation of provisions of this section shall be
9 punishable as provided in Section 3 of this act. In addition, the
10 Council on Law Enforcement Education and Training may suspend or
11 revoke the license pursuant to the rules promulgated for such
12 prohibited conduct.

13 SECTION 18. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1350.17 of Title 59, unless
15 there is created a duplication in numbering, reads as follows:

16 A. On and after March 1, 2014, private schools desiring to
17 conduct any or all phases of bail enforcement training shall submit
18 an application for a certificate of approval to the Council on Law
19 Enforcement Education and Training. The application shall be
20 accompanied by a fee of Three Hundred Dollars (\$300.00). The
21 certificate shall be renewed annually by July 1. The renewal fee
22 shall be Three Hundred Dollars (\$300.00). If the school does not
23 qualify for a certificate or renewal certificate, the Council shall
24 retain twenty percent (20%) of the fee as a processing fee and

1 refund the balance to the school. The processing fee shall be
2 credited and deposited in the CLEET Bail Enforcement Revolving Fund
3 created pursuant to Section 21 of this act.

4 B. A listing of qualified and certified bail enforcement
5 training schools shall be available from the Council. Any certified
6 school may conduct continuing education courses on subjects approved
7 by the Council.

8 SECTION 19. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1350.18 of Title 59, unless
10 there is created a duplication in numbering, reads as follows:

11 A. The firearm training for armed bail enforcers may include
12 the reduction targets for weapons fired at fifty (50) feet to
13 simulate weapons fired at seventy-five (75) feet in indoor ranges.
14 All indoor ranges for this training shall have a minimum of three
15 firing lanes and be approved by the Council on Law Enforcement
16 Education and Training.

17 B. The Council shall approve the standards and curriculum for
18 approved training schools on training and use of tasers, stun guns
19 and other approved offensive weapons and the administration of toxic
20 substances as defined in the Bail Enforcement and Licensing Act. No
21 bail enforcer shall be permitted to carry an offensive weapon or
22 administer toxic substances in the recovery of a defendant without
23 successful completion of the training requirement established by the
24 Council for bail enforcers.

1 SECTION 20. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1350.19 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 Every bail enforcer who holds a valid license in this state
5 shall have access to the jails of this state for the purpose of
6 surrendering persons recovered pursuant to the Bail Enforcement and
7 Licensing Act, and the rules adopted by the Council on Law
8 Enforcement Education and Training.

9 SECTION 21. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1350.20 of Title 59, unless
11 there is created a duplication in numbering, reads as follows:

12 There is hereby created in the State Treasury a revolving fund
13 for the Council on Law Enforcement Education and Training to be
14 designated the "CLEET Bail Enforcement Revolving Fund". The fund
15 shall be a continuing fund, not subject to fiscal year limitations,
16 and shall consist of all application fees, license fees, renewal
17 fees, late fees, administrative fines, and other funds assessed or
18 collected pursuant to the Bail Enforcement and Licensing Act. All
19 monies accruing to the credit of the fund are hereby appropriated
20 and may be budgeted and expended by the Council for the
21 implementation, administration and enforcement of the Bail
22 Enforcement and Licensing Act. Expenditures from the fund shall be
23 made upon warrants issued by the State Treasurer against claims
24

1 filed as prescribed by law with the Director of the Office of State
2 Finance for approval and payment.

3 SECTION 22. AMENDATORY 59 O.S. 2011, Section 1303, is
4 amended to read as follows:

5 Section 1303. A. No person shall act in the capacity of a bail
6 bondsman or perform any of the functions, duties or powers
7 prescribed for bail bondsmen under the provisions of ~~the act~~ Section
8 1301 et seq. of this title, unless that person shall be qualified
9 and licensed as provided in Section 1301 et seq. of this act; title
10 or as authorized pursuant to the Bail Enforcement and Licensing Act.

11 Provided, however, ~~that~~ none of the provisions or terms of this
12 section shall prohibit any individual or individuals from ~~(1)~~
13 pledging:

14 1. Pledging real or other property as security for a bail bond
15 for himself, herself or another in judicial proceedings who does not
16 receive, or is not promised, a fee or charge for his or her services
17 provided such person shall not be permitted to make in excess of ten
18 bonds per year; or, ~~(2) executing~~

19 2. Executing any bail bond for an insurer, pursuant to a bail
20 bond service agreement entered into between such insurer and any
21 automobile club or association, financing institution, insurance
22 company or other organization or association, on behalf of a person
23 required to furnish bail in connection with any violation of law
24 arising out of the use of a motor vehicle.

1 B. No license shall be issued except in compliance with Section
2 1301 et seq. of this act title and none shall be issued except to an
3 individual. License renewals shall be granted subject to all other
4 provisions of Section 1301 et seq. of this act title.

5 A corporation as such shall not be licensed. Nothing herein
6 contained shall be construed as repealing Section 11 of Title 5 of
7 the Oklahoma Statutes; and it is further provided that licensed
8 attorneys are prohibited from signing any bonds as surety in any
9 civil or criminal action pending or about to be filed in any court
10 of this state.

11 SECTION 23. AMENDATORY 59 O.S. 2011, Section 1327, is
12 amended to read as follows:

13 Section 1327. A. At any time before there has been a breach of
14 the undertaking in any type of bail provided herein, the surety or
15 bondsman or a licensed bail enforcer pursuant to a client contract
16 authorized by the Bail Enforcement and Licensing Act may surrender
17 the defendant, or the defendant may surrender himself or herself, to
18 the official to whose custody the defendant was committed at the
19 time bail was taken, or to the official into whose custody the
20 defendant would have been given had he or she been committed. The
21 defendant may be surrendered without the return of premium for the
22 bond if he or she has been guilty of nonpayment of premium, changes
23 address without notifying his or her bondsman, conceals himself or
24 herself, leaves the jurisdiction of the court without the permission

1 of his or her bondsman, or violates his or her contract with the
2 bondsman in any way that does harm to the bondsman, or the surety,
3 or violates his or her obligation to the court. When a bondsman or
4 surety, or a licensed bail enforcer, surrenders a defendant pursuant
5 to this subsection, the bondsman or surety shall file written
6 notification of the surrender. After surrender, and upon filing of
7 written notification of the surrender, the bond shall be exonerated
8 and the clerk shall enter a minute in the case exonerating the bond.

9 B. If the defendant has been placed in custody of another
10 jurisdiction, the district attorney shall direct a hold order to the
11 official, judge or law enforcement agency where the defendant is in
12 custody. All reasonable expenses accrued in returning the defendant
13 to the original court shall be borne by the bondsman who posted the
14 bond with that court. Upon application, the bond in the original
15 court shall be exonerated when the hold order is placed and upon
16 proof of payment of expenses by the bondsman.

17 C. If the defendant has been arrested on new charges and is in
18 the custody of the same jurisdiction in which the bondsman or surety
19 has posted an appearance bond or bonds for the defendant, and the
20 bond or bonds have not been exonerated, and certified copies of
21 bonds are not reasonably available, the bondsman or surety may
22 recommit the defendant to be held in custody on the charges for
23 which the bondsman or surety has previously posted appearance bonds
24 thereon, in accordance with the following procedure:

1 1. On a Recommitment of Defendant by Bondsman form approved by
2 the Administrative Office of the Courts, the bondsman or surety
3 shall personally affix his or her signature to an affidavit
4 attesting to the following:

5 a. the defendant is presently in the custody of the
6 jurisdiction in which the bondsman or surety has
7 posted a bond or bonds,

8 b. the case number, if any, assigned to each bond,

9 c. that the bond or bonds have not been exonerated, and

10 d. the specific charges and bond amount or amounts;

11 2. The bondsman or surety shall present the Recommitment of
12 Defendant by Bondsman form to the official in whose custody the
13 defendant is being held, and the official shall detain the defendant
14 in his or her custody, thereon, as upon a commitment, and by a
15 certificate in writing acknowledging the surrender; and

16 3. When a bondsman or surety recommits a defendant pursuant to
17 this subsection, the bondsman or surety shall file a written
18 notification thereof to the court, and after such notification, the
19 bond or bonds shall be exonerated, and the clerk shall enter a
20 minute in the case exonerating the bond or bonds.

21 D. When a defendant does appear before the court as required by
22 law and enters a plea of guilty or nolo contendere, is sentenced or
23 a deferred sentence is granted as provided for in Section 991c of
24

1 Title 22 of the Oklahoma Statutes, in such event the undertaking and
2 bondsman and insurer shall be exonerated from further liability.

3 SECTION 24. AMENDATORY 59 O.S. 2011, Section 1328, is
4 amended to read as follows:

5 Section 1328. The ~~person~~ bondsman or surety, or a licensed bail
6 enforcer pursuant to a client contract authorized by the Bail
7 Enforcement and Licensing Act, desiring to make a surrender of the
8 defendant shall procure or have in his or her possession a certified
9 copy of the undertakings and deliver ~~them~~ such documents together
10 with the defendant to the official in whose custody the defendant
11 was at the time bail was taken, or to the official into whose
12 custody he or she would have been given had he or she been
13 committed, who shall detain the defendant in ~~his or her~~ custody
14 thereon, as upon a commitment, and by a certificate in writing
15 acknowledge the surrender.

16 Upon the presentation of a certified copy of the undertaking and
17 the certificate of the official, the court before which the
18 defendant has been held to answer, or the court in which the
19 preliminary examination, indictment, information or appeal, ~~as the~~
20 ~~case may be~~ is pending, shall, ~~upon~~ upon notice of three (3) days given
21 by the person making the surrender to the prosecuting officer of the
22 court having jurisdiction of the offense, together with a copy of
23 the undertakings and certificate, order that the obligors be
24 exonerated from liability on their undertakings; and, if money has

1 been deposited as bail, that such money or bonds be refunded. If
2 property pledged, a certificate of exoneration be issued and the
3 lien previously filed be released and the undertakings of whatever
4 nature be canceled.

5 If certified copies of bonds are not reasonably available, the
6 bondsman or surety may recommit the defendant to be held in custody
7 on the charges for which the bondsman or surety has previously
8 posted appearance bonds thereon in accordance with the following
9 procedure:

10 1. On a Recommitment of Defendant by Bondsman form approved by
11 the Administrative Office of the Courts, the bondsman or surety
12 shall personally affix his or her signature to an affidavit
13 attesting to the following:

14 a. the bondsman or surety has posted a bond or bonds for
15 the defendant and is hereby presented to the official
16 in whose custody the defendant was at the time bail
17 was taken,

18 b. the case number, if any, assigned to each bond, and

19 c. the specific charges and bond amount or amounts;

20 2. The bondsman or surety shall present the Recommitment of
21 Defendant by Bondsman form to the official in whose custody the
22 defendant is being surrendered, and the official shall detain the
23 defendant in his or her custody thereon, as upon a commitment, and
24 by a certificate in writing acknowledging the surrender; and

1 3. When a bondsman or surety recommitts a defendant pursuant to
2 this subsection, the bondsman or surety shall file a written
3 notification thereof to the courts, and after such notification, the
4 bond or bonds shall be exonerated and the clerk shall enter a minute
5 in the case exonerating the bond or bonds.

6 SECTION 25. AMENDATORY 59 O.S. 2011, Section 1329, is
7 amended to read as follows:

8 Section 1329. For the purpose of surrendering the defendant,
9 ~~the:~~

10 1. The surety may arrest ~~him~~ the defendant before the
11 forfeiture of the undertaking,~~or;~~

12 2. The surety, by written authority endorsed on a certified
13 copy of the undertaking, may empower any peace officer to make an
14 arrest of the defendant, first paying the lawful fees therefor; or

15 3. The bondsman or surety, by contract with a licensed bail
16 recovery agency pursuant to the Bail Enforcement and Licensing Act
17 which contract has attached a certified copy of the undertaking, may
18 authorize the bail recovery agency to recover and surrender the
19 person.

20 In addition, the bondsman may surrender the defendant by
21 following the commitment procedures as set forth in subsection C of
22 Section 1327 of this title.

23 SECTION 26. AMENDATORY 59 O.S. 2011, Section 1332, is
24 amended to read as follows:

1 Section 1332. A. If there is a breach of an undertaking, the
2 court before which the cause is pending shall issue an arrest
3 warrant for the defendant and declare the undertaking and any money,
4 property, or securities that have been deposited as bail, forfeited
5 on the day the defendant failed to appear. In the event of the
6 forfeiture of a bail bond the clerk of the trial court shall, within
7 thirty (30) days after the forfeiture, by mail with return receipt
8 requested, mail a true and correct copy of the order and judgment of
9 forfeiture to the bondsman, and if applicable, the insurer, whose
10 risk it is, and keep at least one copy of the order and judgment of
11 forfeiture on file; provided, the clerk shall not be required to
12 mail the order and judgment of forfeiture to the bondsman or insurer
13 if, within fifteen (15) days from the date of forfeiture, the
14 defendant is returned to custody, the bond is reinstated by the
15 court with the bondsman's approval, or the order of forfeiture is
16 vacated or set aside by the court. Failure of the clerk of the
17 trial court to comply with the thirty-day notice provision in this
18 subsection shall exonerate the bond by operation of law.

19 B. The order and judgment of forfeiture shall be on forms
20 prescribed by the Administrative Director of the Courts.

21 C. 1. The bail bondsman shall have ninety (90) days from
22 receipt of the order and judgment of forfeiture from the court clerk
23 or mailing of the notice if no receipt is made, to return the
24 defendant to custody.

1 2. The bondsman may contract with a licensed bail recovery
2 agency pursuant to the Bail Enforcement and Licensing Act to recover
3 and return the defendant to custody within the ninety-day period, or
4 as agreed.

5 3. When the court record indicates that the defendant is
6 returned to custody in the jurisdiction where forfeiture occurred,
7 within the ninety-day period, the court clerk shall enter minutes
8 vacating the forfeiture and exonerating the bond. If the defendant
9 has been timely returned to custody, but this fact is not reflected
10 by the court record, the court shall vacate the forfeiture and
11 exonerate the bond.

12 ~~3.~~ 4. For the purposes of this section, "return to custody"
13 means:

- 14 a. the return of the defendant to the appropriate
15 Oklahoma law enforcement agency by the bondsman,
- 16 b. an appearance of the defendant in open court in the
17 court where charged,
- 18 c. arrest or incarceration within this state of the
19 defendant by law enforcement personnel, or
- 20 d. arrest or incarceration of the defendant in any other
21 jurisdiction, provided the bondsman has requested that
22 a hold be placed on the defendant in the jurisdiction
23 wherein the forfeiture lies and has guaranteed

1 reasonable travel expenses for the return of the
2 defendant.

3 ~~4.~~ 5. In addition to the provisions set forth in paragraphs ~~2~~ 3
4 and ~~3~~ 4 of this subsection, the bond shall be exonerated by
5 operation of law in any case in which:

6 a. the bondsman has requested in writing of the sheriff's
7 department in the county where the forfeiture occurred
8 that the defendant be entered into the computerized
9 records of the National Crime Information Center, and
10 the request has not been honored within fourteen (14)
11 business days of the receipt of the written request by
12 the department, or

13 b. the defendant has been arrested outside of this state
14 and the court record shows the prosecuting attorney
15 has declined to proceed with extradition.

16 ~~5.~~ 6. The court may, in its discretion, vacate the order of
17 forfeiture and exonerate the bond where good cause has been shown
18 for:

19 a. the defendant's failure to appear, or

20 b. the bondsman's failure to return the defendant to
21 custody within ninety (90) days.

22 D. 1. If, within ninety (90) days from receipt of the order
23 and judgment of forfeiture from the court clerk, or mailing of the
24 notice if no receipt is made, the defendant is not returned to

1 custody, or the forfeiture has not been stayed, the bondsman and, if
2 applicable, the insurer whose risk it is shall deposit cash or other
3 valuable securities in the face amount of the bond with the court
4 clerk ninety-one (91) days from receipt of the order and judgment of
5 forfeiture from the court clerk, or mailing of the notice if no
6 receipt is made; provided, this provision shall not apply if the
7 defendant has been returned to custody within the ninety-day period
8 and the court has failed to vacate the forfeiture pursuant to
9 paragraphs ~~2~~ 3 through ~~5~~ 6 of subsection C of this section.

10 2. After the order and judgment has been paid, the bondsman
11 and, if applicable, the insurer whose risk it is shall have one year
12 from the date payment is due to return the defendant to custody as
13 defined by paragraph ~~3~~ 4 of subsection C of this section. In the
14 event the defendant is returned to custody and all expenses for the
15 defendant's return have been paid by the bondsman or insurer, the
16 bondsman's or insurer's property shall be returned; provided, the
17 request for remitter be made by motion filed within one year from
18 the date payment is due.

19 3. If the additional cash or securities are not deposited with
20 the court clerk on or before the ninety-first day after the date of
21 service of the order and judgment of forfeiture from the court
22 clerk, or mailing of the notice if no receipt is made, then the
23 court clerk shall notify the Insurance Commissioner by sending a
24 certified copy of the order and judgment of forfeiture and proof

1 that the bondsman and, if applicable, the insurer have been notified
2 by mail with return receipt requested.

3 4. The Insurance Commissioner shall:

4 a. in the case of a surety bondsman, immediately cancel
5 the license privilege and authorization of the insurer
6 to do business within the State of Oklahoma and cancel
7 the appointment of all surety bondsman agents of the
8 insurer who are licensed by Section 1301 et seq. of
9 this title, and

10 b. in the case of a professional bondsman, withdraw the
11 face amount of the forfeiture from the deposit
12 provided in Section 1306 of this title. The
13 Commissioner shall then immediately direct the
14 professional bondsman, by mail with return receipt
15 requested, to make additional deposits to bring the
16 original deposit to the required level. Should the
17 professional bondsman, after being notified, fail to
18 make an additional deposit within ten (10) days from
19 the receipt of notice, or mailing of notice if no
20 receipt is made, the license shall be revoked and all
21 sums presently on deposit shall be held by the
22 Commissioner to secure the face amounts of bonds
23 outstanding. Upon release of the bonds, any amount of
24 deposit in excess of the bonds shall be returned to

1 the bondsman; provided, the bail bondsman shall have
2 had notice as required by the court, at the place of
3 the bondsman's business, of the trial or hearing of
4 the defendant named in the bond. The notice shall
5 have been at least ten (10) days before the required
6 appearance of the defendant, unless the appearance is
7 scheduled at the time of execution of the bond.
8 Notwithstanding the foregoing, the bondsman shall be
9 deemed to have had notice of the trial or hearing if
10 the defendant named in the bond shall have been
11 recognized back in open court to appear at a date
12 certain for the trial or hearing.

13 5. If the actions of any bail bondsman force the Insurance
14 Commissioner to withdraw monies, deposited pursuant to Section 1306
15 of this title, to pay past due executions more than two (2) times in
16 a consecutive twelve-month period, then the license of the
17 professional bondsman shall, in addition to other penalties, be
18 suspended automatically for one (1) year or until a deposit equal to
19 all outstanding forfeitures due is made. The deposit shall be
20 maintained until the Commissioner deems it feasible to reduce the
21 deposit. In no case shall an increased deposit exceed two (2) years
22 unless there is a recurrence of withdrawals as stated herein.

23 E. 1. If the defendant's failure to appear was the result of
24 the defendant's death or of being in the custody of a court other

1 than the court in which the appearance was scheduled, forfeiture
2 shall not lie. Upon proof to the court that the bondsman paid the
3 order and judgment of forfeiture without knowledge that the
4 defendant was deceased or in custody of another court on the day the
5 defendant was due to appear, and all expenses for the defendant's
6 return have been paid by the bondsman, the bondsman's property shall
7 be returned.

8 2. Where the defendant is in the custody of another court, the
9 district attorney or municipal attorney shall direct a hold order to
10 the official, judge, court or law enforcement agent wherein the
11 defendant is in custody; provided, that all expenses accrued as a
12 result of returning the custody of the defendant shall be borne by
13 the bondsman.

14 F. The district attorney or municipal attorney shall not
15 receive any bonuses or other monies or property for or by reason of
16 services or actions in connection with or collection of bond
17 forfeitures under the provisions of Section 1301 et seq. of this
18 title, except that the court may award a reasonable attorney fee in
19 favor of the prevailing party for legal services in any civil action
20 or proceeding to collect upon a judgment of forfeiture.

21 G. The above procedures shall be subject to the bondsman's
22 rights of appeal. The bondsman or insurer may appeal an order and
23 judgment of forfeiture pursuant to the procedures for appeal set
24 forth in Section 951 et seq. of Title 12 of the Oklahoma Statutes.

1 To stay the execution of the order and judgment of forfeiture, the
2 bondsman or insurer shall comply with the provisions set forth in
3 Section 990.4 of Title 12 of the Oklahoma Statutes.

4 H. For municipal courts of record, the above procedures are
5 criminal in nature and ancillary to the criminal procedures before
6 the trial court and shall be subject to the bondsman's right of
7 appeal. The bondsman or insurer may appeal an order and judgment of
8 forfeiture by the municipal courts of record to the Court of
9 Criminal Appeals.

10 I. Upon a motion to the court, any person executing a bail bond
11 as principal or as surety shall be exonerated after three (3) years
12 have elapsed from the posting of the bond, unless a judgment has
13 been entered against the surety or the principal for the forfeiture
14 of the bond, or unless the court grants an extension of the three-
15 year time period for good cause shown, upon motion by the
16 prosecuting attorney.

17 SECTION 27. AMENDATORY 59 O.S. 2011, Section 1332.1, is
18 amended to read as follows:

19 Section 1332.1 For the purpose of surrendering a defendant
20 after a breach of the undertaking, the following persons may return
21 the defendant to custody:

22 1. A bondsman or surety;

23

24

1 2. ~~An employee of~~ A licensed bail enforcer having authority
2 under a client contract with a bondsman or surety pursuant to the
3 Bail Enforcement and Licensing Act; or

4 3. A peace officer acting within the peace officer's
5 jurisdiction.

6 SECTION 28. AMENDATORY 59 O.S. 2011, Section 1750.2A, is
7 amended to read as follows:

8 Section 1750.2A Any person violating or failing to comply with
9 the provisions of the Oklahoma Security Guard and Private
10 Investigator Act or the Bail Enforcement and Licensing Act may be
11 enjoined from such violations or required to comply with such
12 provisions by any district court of competent jurisdiction. The
13 Council on Law Enforcement Education and Training or the Attorney
14 General may apply for an order enjoining such violation or enforcing
15 compliance with ~~this act~~ law and rule. Upon the filing of a
16 verified petition with the court, the court, if satisfied by the
17 affidavit or otherwise that the person has violated ~~this act~~ any
18 provisions of the Oklahoma Security Guard and Private Investigator
19 Act or the Bail Enforcement and Licensing Act, may issue a temporary
20 injunction enjoining such continued violation. In case of violation
21 of any order or decree issued by court, the offender may be held in
22 contempt of court. Proceedings under this section shall be in
23 addition to all other remedies and penalties provided by law.

1 SECTION 29. AMENDATORY 59 O.S. 2011, Section 1750.5, is
2 amended to read as follows:

3 Section 1750.5 A. Licenses authorized to be issued by the
4 Council on Law Enforcement Education and Training (CLEET) shall be
5 as follows:

- 6 1. Security Agency License;
- 7 2. Investigative Agency License;
- 8 3. Private Investigator License (unarmed);
- 9 4. Security Guard License (unarmed);
- 10 5. Armed Security Guard License;
- 11 6. Special Event License (unarmed); ~~and~~
- 12 7. Armed Private Investigator License;
- 13 8. Bail Enforcer License;
- 14 9. Armed Bail Enforcer License; and
- 15 10. Bail Recovery Agency License.

16 B. Any qualified applicant meeting the requirements for more
17 than one of the positions of private investigator, security guard,
18 ~~or,~~ armed security guard, bail enforcer, or armed bail enforcer may
19 be issued a separate license for each position for which qualified,
20 or in the discretion of the Council, a combination license provided
21 the required license fees are paid.

22 C. 1. A private investigator may carry a firearm, if the
23 private investigator also performs the functions of an armed
24

1 security guard, under the authority of the armed security guard
2 license.

3 2. If the private investigator performs no functions of an
4 armed security guard, the Council may issue an armed private
5 investigator license. If a person has been issued an armed private
6 investigator license, the Council may issue an armed bail enforcer
7 license if the applicant is otherwise eligible and qualified. The
8 applicant for an armed private investigator license must complete
9 Phase I, III and IV training and pass the psychological examination
10 and state test; provided however, active certified peace officers
11 and retired certified peace officers shall be exempt from the
12 psychological examination as provided in Section 1750.3A of this
13 title, and active certified peace officers of any state, county or
14 municipal law enforcement agency in this state shall be exempt from
15 the Phase I, III and IV training and state test for an armed private
16 investigator. The Council will charge the same fee for the armed
17 private investigators license as the cost of the armed security
18 guard license; provided however, an active certified peace officer
19 who is an applicant for ~~a~~ an armed private investigator or armed
20 security guard license shall be charged only twenty percent (20%) of
21 the required fee.

22 3. Any person issued an armed private investigator license may
23 carry a concealed firearm when on and off duty, provided the person
24

1 keeps the firearm concealed from view and is in possession of a
2 valid driver license and a valid armed private investigator license.

3 4. Any person issued an armed bail enforcer license may carry a
4 concealed approved pistol, or may open-carry an approved pistol with
5 a visible bail enforcer badge affixed to the holster or belt
6 immediately next to the firearm while wearing clearly marked apparel
7 designating the person as a "Bail Enforcer" with his or her license
8 number clearly visible, when actively engaged in the recovery of a
9 defendant, subject to all rules for use and conduct of firearms
10 promulgated by the Council. An armed bail enforcer shall be
11 prohibited from carrying a firearm or wearing marked bail enforcer
12 apparel pursuant to the armed bail enforcer license when not
13 actively engaged in the recovery of a defendant.

14 D. Any identification card issued to a person meeting the
15 license requirements for an armed security guard ~~or~~, an armed
16 private investigator or armed bail enforcer shall be distinct and
17 shall explicitly state that the person is authorized to carry a
18 firearm pursuant to the provisions of the Oklahoma Security Guard
19 and Private Investigator Act or the Bail Enforcement and Licensing
20 Act. Upon receipt of the license and identification card, the armed
21 security guard ~~or~~, armed private investigator or armed bail enforcer
22 is authorized to carry a firearm ~~in the performance of his or her~~
23 ~~duties~~ subject to the respective provisions of the Oklahoma Security
24

Guard and Private Investigator Act or the Bail Enforcement and Licensing Act and the rules promulgated by the Council.

E. The Council may issue a conditional license to a person employed by a security or investigative agency as a trainee for a security guard, armed security guard, or private investigator position, when the person has submitted a properly completed application, made under oath, subject to the following conditions:

1. A conditional license shall authorize employees to perform the same functions that regular licensees perform, but subject to supervision by the employing agency as the Council may prescribe;

2. The holder of a conditional license shall complete the necessary training requirements within one hundred eighty (180) days from the effective date of the conditional license, after which the conditional license shall expire;

3. The holder of a conditional license as an armed security guard shall not carry a firearm in the performance of duties until after completing a course of firearms training as prescribed by the Council, and having been issued a regular license by the Council;

4. A conditional license may be renewed at the discretion of the Council, if necessary to allow an applicant to complete any training required for a regular license; ~~and~~

5. When the Council finds that a conditional license holder has completed the required training and is otherwise qualified for a license pursuant to the provisions of the Oklahoma Security Guard

1 and Private Investigator Act, the Council shall issue a regular
2 license; and

3 6. The Council shall be prohibited from issuing a conditional
4 license to a bail enforcer or bail recovery agency under the Bail
5 Enforcement and Licensing Act.

6 F. A Security Agency License may be issued to an individual,
7 corporation, or other legal entity meeting the following
8 qualifications:

9 1. If the license is to be issued in the name of a legal entity
10 other than a natural person, the applicant must furnish proof that
11 the entity is legally recognized, such as the issuance of a
12 corporate charter; and

13 2. The executive officer, manager, or other person in charge of
14 supervising security guards in the performance of their duties shall
15 be a licensed security guard.

16 G. An Investigative Agency License may be issued to an
17 individual, corporation, or other legal entity meeting the following
18 qualifications:

19 1. If the license is to be issued in the name of a legal entity
20 other than a natural person, the applicant must furnish proof that
21 the entity is legally recognized, such as the issuance of a
22 corporate charter;

23 2. Any person, otherwise qualified, may own a private
24 investigation agency; and

1 3. A self-employed private investigator who employs no other
2 investigators shall also be licensed as an investigative agency, but
3 shall only be required to be insured or bonded as a self-employed
4 private investigator.

5 H. A Security Guard License, Armed Security Guard License,
6 Private Investigator License, Armed Private Investigator License, or
7 combination thereof may be issued to an applicant meeting the
8 following qualifications. The applicant shall:

9 1. Be a citizen of the United States or an alien legally
10 residing in the United States;

11 2. Be at least eighteen (18) years of age, except that an
12 applicant for an Armed Security Guard License shall be at least
13 twenty-one (21) years of age;

14 3. Have successfully completed training requirements for the
15 license applied for, as prescribed by the Council;

16 4. Be of good moral character;

17 5. Not have a record of a felony conviction;

18 6. Not have a record of conviction for larceny, theft, false
19 pretense, fraud, embezzlement, false personation of an officer, any
20 offense involving moral turpitude, any offense involving a minor as
21 a victim, any nonconsensual sex offense, any offense involving the
22 possession, use, distribution, or sale of a controlled dangerous
23 substance, any offense involving a firearm, or any other offense as
24 prescribed by the Council, as provided herein.

- 1 a. If any conviction which disqualifies an applicant
2 occurred more than five (5) years prior to the
3 application date and the Council is convinced the
4 offense constituted an isolated incident and the
5 applicant has been rehabilitated, the Council may, in
6 its discretion, waive the conviction disqualification
7 as provided for in this paragraph and issue an unarmed
8 security guard license or a private investigator
9 license, but shall not issue an armed guard license,
10 to the applicant if ~~the applicant is otherwise~~
11 ~~qualified, unless~~ the felony involved the use of a
12 firearm or was violent in nature.
- 13 b. If an Oklahoma State Bureau of Investigation records
14 check and a local records check reveal that there are
15 no felony convictions, criminal convictions involving
16 moral turpitude, or any other disqualifying
17 convictions as specified in the Oklahoma Security
18 Guard and Private Investigator Act or prescribed by
19 the Council, then the Council may conditionally issue
20 an armed security guard license pending completion of
21 the criminal history and background check.
- 22 c. Under oath, the applicant shall certify that he or she
23 has no disqualifying convictions as specified in the
24

Oklahoma Security Guard and Private Investigator Act
or by the Council.

d. The applicant shall further meet all other
qualifications.

e. If upon completion of the required background
investigation it is discovered that a disqualifying
conviction exists, the Council shall immediately
revoke the armed guard license of the applicant;

7. Make a statement that the applicant is not currently
undergoing treatment for a mental illness, condition, or disorder,
make a statement whether the applicant has ever been adjudicated
incompetent or committed to a mental institution, and make a
statement regarding any history of illegal drug use or alcohol
abuse. Upon presentation by the Council on Law Enforcement
Education and Training of the name, gender, date of birth, and
address of the applicant to the Department of Mental Health and
Substance Abuse Services, the Department of Mental Health and
Substance Abuse Services shall notify the Council within ten (10)
days whether the computerized records of the Department indicate the
applicant has ever been involuntarily committed to an Oklahoma state
mental institution. For purposes of this subsection, "currently
undergoing treatment for a mental illness, condition, or disorder"
means the person has been diagnosed by a licensed physician or
psychologist, as being afflicted with a substantial disorder of

1 thought, mood, perception, psychological orientation, or memory that
2 significantly impairs judgment, behavior, capacity to recognize
3 reality, or ability to meet the ordinary demands of life and such
4 condition continues to exist; and

5 8. Make a statement regarding misdemeanor domestic violence
6 charges.

7 I. A special event license may be issued to an employee of a
8 security agency who is hired on a temporary basis as an unarmed
9 security guard for a particular event. An application for a special
10 event license shall be made by the agency employing the applicant.
11 The agency shall certify to the Council that the applicant meets the
12 qualifications for security guards, pursuant to subsection H of this
13 section.

14 J. 1. All persons and agencies shall obtain and maintain
15 liability coverage in accordance with the following minimum
16 standards:

- 17 a. general liability insurance coverage for bodily
18 injury, personal injury, and property damage, with
19 endorsements for personal injury including false
20 arrest, libel, slander, and invasion of privacy, or
- 21 b. a surety bond that allows persons to recover for
22 actionable injuries, loss, or damage as a result of
23 the willful, or wrongful acts or omissions of the
24 principal and protects this state, its agents,

1 officers and employees from judgments against the
2 principal or insured licensee, and is further
3 conditioned upon the faithful and honest conduct of
4 the principal's business.

5 2. Liability coverages and bonds outlined in this section shall
6 be in the minimum amounts of One Hundred Thousand Dollars
7 (\$100,000.00) for agencies, Ten Thousand Dollars (\$10,000.00) for
8 armed security guards and armed private investigators, or
9 combination armed license; and Five Thousand Dollars (\$5,000.00) for
10 unarmed security guards and self-employed unarmed private
11 investigators who employ no other investigators.

12 3. Security agencies and investigative agencies shall ensure
13 that all employees of these agencies have met the minimum liability
14 coverages as prescribed in this section.

15 4. Insurance policies and bonds issued pursuant to this section
16 shall not be modified or canceled unless ten (10) days' prior
17 written notice is given to the Council. All persons and agencies
18 insured or bonded pursuant to this section shall be insured or
19 bonded by an insurance carrier or a surety company licensed in the
20 state in which the insurance or bond was purchased, or in this
21 state.

22 5. In lieu of the requirements of this subsection, the Council
23 may accept a written statement from a corporation which is
24 registered with the Oklahoma Secretary of State attesting that the

1 corporation self-insures the general operation of business for the
2 types of liability set out in paragraphs 1 and 2 of this subsection.

3 K. Upon written notice, any license may be placed on inactive
4 status.

5 L. Similar or duplicate agency names will not be issued. Each
6 agency name must be distinguishably different.

7 SECTION 30. AMENDATORY 59 O.S. 2011, Section 1750.14, is
8 amended to read as follows:

9 Section 1750.14 A. Except as provided in subsection C of this
10 section, any person who is not a resident of this state who
11 ~~apprehends~~ intends to apprehend in this state, or attempts to
12 apprehend, a defendant, who has failed to appear before any court of
13 this state or another state or any federal court as required by law
14 and has forfeited bail or for purposes of apprehending a defendant
15 prior to breach of an undertaking or bail contract, shall be
16 required to have a client contract with a bail recovery agency
17 licensed in this state or to be licensed as a self-employed bail
18 enforcer in this state prior to such apprehension or to be
19 accompanied at the time of the apprehension by a peace officer ~~or a~~
20 ~~person licensed in this state as a bail bondsman.~~

21 B. Any person who violates the provisions of this section shall
22 be guilty of a ~~misdemeanor~~ violation of the Bail Enforcement and
23 Licensing Act and shall be punished as provided in Section 3 of this
24 act.

1 C. The provisions of this section shall not apply to law
2 enforcement officers of any jurisdiction.

3 SECTION 31. This act shall become effective September 1, 2013.

4 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
5 February 14, 2013 - DO PASS AS AMENDED
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