

ASSEMBLY BILL

No. 379

Introduced by Assembly Member Hagman

February 14, 2011

An act to add Section 341.7 to the Code of Civil Procedure, and to add Article 5.5 (commencing with Section 1299) to Chapter 1 of Title 10 of Part 2 of the Penal Code, relating to bail.

LEGISLATIVE COUNSEL'S DIGEST

AB 379, as introduced, Hagman. Bail Fugitive Recovery Persons Act: statute of limitations: civil actions.

(1) Existing law provides that an action for assault, battery, or injury to an individual caused by the wrongful act or neglect of another is required to be commenced within 2 years.

This bill would require that all civil actions for assault, battery, negligence, false imprisonment, or other personal injuries arising from the arrest or attempted arrest of a bail fugitive, as defined, by a bail fugitive recovery person, as defined, be commenced within 90 days of the date of the arrest or attempted arrest.

(2) Existing law regulating the issuance of bail bonds requires any person advertising or engaging in the business of executing, delivering, or furnishing bail bonds to hold a bail agent's license, a bail permittee's license, or a bail solicitor's license, as specified, issued by the Insurance Commissioner.

This bill would provide for the regulation of bail fugitive recovery persons, defined as a person given written authorization by the bail or depositor of bail and contracted to investigate, surveil, locate, and arrest a bail fugitive and any person employed to assist the bail or depositor of bail to investigate, surveil, locate, and arrest a bail fugitive. This bill

would require that bail fugitive recovery persons be at least 21 years of age and complete one power of arrest course, as specified.

This bill would permit an authorized person to arrest a bail fugitive at any time or place and permit that person to enter into the residence of the fugitive or the residence of a third party provided that there is probable cause to believe that the fugitive is present in the residence. This bill would require that a person authorized to apprehend a bail fugitive notify local law enforcement of his or her intent to apprehend a bail fugitive no more than 6 hours prior to attempting to apprehend a bail fugitive, except as specified. The bill would require any person authorized to apprehend a bail fugitive to carry a certification of completion of required courses and training programs, and would permit an individual authorized to apprehend a bail fugitive to wear a uniform, badge, jacket, or other clothing that displays the words “bail enforcement agent,” “bail recovery agent,” “bail fugitive recovery,” or “bail fugitive recovery person.”

Because this bill states that any person who is not in compliance with, or who violates, these provisions is guilty of a misdemeanor punishable, as specified, this bill would create a new crime, thereby imposing a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 341.7 is added to the Code of Civil
- 2 Procedure, to read:
- 3 341.7. Notwithstanding any other provision of law, all civil
- 4 actions for assault, battery, negligence, false imprisonment, or
- 5 other personal injuries arising from the arrest or attempted arrest
- 6 of a bail fugitive, as defined under Section 1299.01 of the Penal
- 7 Code, by a bail fugitive recovery person, as defined under Section
- 8 1299.01 of the Penal Code, shall be commenced within 90 days
- 9 of the arrest or attempted arrest.

1 SEC. 2. Article 5.5 (commencing with Section 1299) is added
2 to Chapter 1 of Title 10 of Part 2 of the Penal Code, to read:

3
4 Article 5.5. Bail Fugitive Recovery Persons Act
5

6 1299. This article shall be known as the Bail Fugitive Recovery
7 Persons Act.

8 1299.01. For purposes of this article, the following terms shall
9 have the following meanings:

10 (a) "Bail" means a person licensed by the Department of
11 Insurance pursuant to Section 1800 of the Insurance Code.

12 (b) "Bail fugitive" means a defendant in a pending criminal case
13 who has been released from custody under a financially secured
14 appearance, cash, or other bond and has had that bond declared
15 forfeited, or a defendant in a pending criminal case who has
16 violated a bond condition whereby apprehension and
17 reincarceration are permitted.

18 (c) "Bail fugitive recovery person" means a person who is
19 provided written authorization pursuant to Sections 1300 and 1301
20 by the bail or depositor of bail, and is contracted to investigate,
21 surveil, locate, and arrest a bail fugitive for surrender to the
22 appropriate court, jail, or police department, and any person who
23 is employed to assist a bail or depositor of bail to investigate,
24 surveil, locate, and arrest a bail fugitive for surrender to the
25 appropriate court, jail, or police department.

26 (d) "Depositor of bail" means a person or entity who has
27 deposited money or bonds to secure the release of a person charged
28 with a crime or offense.

29 1299.02. (a) No person, other than a certified law enforcement
30 officer, shall be authorized to apprehend, detain, or arrest a bail
31 fugitive unless that person meets one of the following conditions:

32 (1) Is a bail as defined in subdivision (a) of Section 1299.01 or
33 a depositor of bail as defined in subdivision (d) of Section 1299.01.

34 (2) Is a bail fugitive recovery person as defined in subdivision
35 (c) of Section 1299.01.

36 (3) Is licensed as a private investigator as provided in Chapter
37 11.3 (commencing with Section 7512) of Division 3 of the Business
38 and Professions Code.

39 (b) This article shall not prohibit an arrest pursuant to Sections
40 837, 838, and 839.

1299.04. (a) A bail fugitive recovery person, a bail agent, bail permittee, or bail solicitor who contracts his or her services to another bail agent or surety as a bail fugitive recovery person for the purposes specified in subdivision (c) of Section 1299.01, and any bail agent, bail permittee, or bail solicitor who obtains licensing after January 1, 2000, and who engages in the arrest of a defendant pursuant to Section 1301 shall comply with the following requirements:

(1) The person shall be at least 21 years of age.

(2) The person shall have completed a 40-hour power of arrest course certified by the Commission on Peace Officer Standards and Training pursuant to Section 832. Completion of the course shall be for educational purposes only and not intended to confer the power of arrest of a peace officer or public officer, or agent of any federal, state, or local government, unless the person is so employed by a governmental agency.

(3) The person shall have completed a minimum of 12 hours of classroom education certified pursuant to Section 1810.7 of the Insurance Code.

(4) The person shall not have been convicted of a felony.

(b) Upon completion of any course or training program required by this section, an individual authorized by Section 1299.02 to apprehend a bail fugitive shall carry certificates of completion with him or her at all times in the course of performing his or her duties under this article.

1299.05. In performing a bail fugitive apprehension, an individual authorized by Section 1299.02 to apprehend a bail fugitive shall comply with all laws applicable to that apprehension.

1299.06. Before apprehending a bail fugitive, an individual authorized by Section 1299.02 to apprehend a bail fugitive shall have in his or her possession proper documentation of authority to apprehend issued by the bail or depositor of bail as prescribed in Sections 1300 and 1301. The authority to apprehend document shall include all of the following information: the name of the individual authorized by Section 1299.02 to apprehend a bail fugitive and any fictitious name, if applicable; the address of the principal office of the individual authorized by Section 1299.02 to apprehend a bail fugitive; and the name and principal business address of the bail agency, surety company, or other party

1 contracting with the individual authorized by Section 1299.02 to
2 apprehend a bail fugitive.

3 1299.07. (a) An individual authorized by Section 1299.02 to
4 apprehend a bail fugitive shall not represent himself or herself in
5 any manner as being a sworn law enforcement officer.

6 (b) An individual authorized by Section 1299.02 to apprehend
7 a bail fugitive shall not wear any uniform that represents himself
8 or herself as belonging to any part or department of a federal, state,
9 or local government. Any uniform shall not display the words
10 United States, Bureau, Task Force, Federal, or other substantially
11 similar words that a reasonable person may mistake for a
12 government agency.

13 (c) An individual authorized by Section 1299.02 to apprehend
14 a bail fugitive shall not wear or otherwise use a badge that
15 represents himself or herself as belonging to any part or department
16 of the federal, state, or local government.

17 (d) An individual authorized by Section 1299.02 to apprehend
18 a bail fugitive shall not use a fictitious name that represents himself
19 or herself as belonging to any federal, state, or local government.

20 (e) Notwithstanding subdivisions (a) to (d), inclusive, or any
21 other provision of law, an individual authorized by Section 1299.02
22 to apprehend a bail fugitive may wear a uniform, badge, jacket,
23 or other clothing that displays the words “bail enforcement agent,”
24 “bail recovery agent,” “bail fugitive recovery,” or “bail fugitive
25 recovery person.”

26 1299.08. (a) Except under exigent circumstances, an individual
27 authorized by Section 1299.02 to apprehend a bail fugitive shall,
28 prior to and no more than six hours before attempting to apprehend
29 the bail fugitive, notify the local police department or sheriff’s
30 department of the intent to apprehend a bail fugitive in that
31 jurisdiction by doing all of the following:

32 (1) Indicating the name of an individual authorized by Section
33 1299.02 to apprehend a bail fugitive entering the jurisdiction.

34 (2) Stating the approximate time an individual authorized by
35 Section 1299.02 to apprehend a bail fugitive will be entering the
36 jurisdiction and the approximate length of the stay.

37 (3) Stating the name and approximate location of the bail
38 fugitive.

39 (b) If an exigent circumstance does arise and prior notification
40 is not given as provided in subdivision (a), an individual authorized

1 by Section 1299.02 to apprehend a bail fugitive shall notify the
2 local police department or sheriff's department immediately after
3 the apprehension, and upon request of the local jurisdiction, shall
4 submit a detailed explanation of those exigent circumstances within
5 three working days after the apprehension is made.

6 (c) This section shall not preclude an individual authorized by
7 Section 1299.02 to apprehend a bail fugitive from making or
8 attempting to make a lawful arrest of a bail fugitive on bond
9 pursuant to Section 1300 or 1301. The fact that a bench warrant
10 is not located or entered into a warrant depository or system shall
11 not affect a lawful arrest of the bail fugitive.

12 (d) For the purposes of this section, notice may be provided to
13 a local law enforcement agency by telephone prior to the arrest
14 or, after the arrest has taken place, if exigent circumstances exist.
15 In that case the name or operator number of the employee receiving
16 the notice information shall be obtained and retained by the bail,
17 depositor of bail, or bail fugitive recovery person.

18 1299.09. An individual authorized by Section 1299.02 to
19 apprehend a bail fugitive may arrest that fugitive at any time or
20 place and may enter into the residence of the fugitive or the
21 residence of a third party provided that there is probable cause to
22 believe that the fugitive is present in the residence.

23 1299.10. An individual authorized by Section 1299.02 to
24 apprehend a bail fugitive shall not carry a firearm or other weapon
25 unless in compliance with the laws of the state.

26 1299.11. Any person who violates this act, or who conspires
27 with another person to violate this act, or who hires an individual
28 to apprehend a bail fugitive, knowing that the individual is not
29 authorized by Section 1299.02 to apprehend a bail fugitive, is
30 guilty of a misdemeanor punishable by a fine of five thousand
31 dollars (\$5,000) or by imprisonment in the county jail not to exceed
32 one year, or by both that imprisonment and fine.

33 1299.12. Nothing in this article is intended to exempt from
34 licensure persons otherwise required to be licensed as private
35 investigators pursuant to Chapter 11.3 (commencing with Section
36 7512) of Division 3 of the Business and Professions Code.

37 SEC. 3. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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