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FILED MAR 2 1998

SENATE FILE 2374  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2107)

Passed Senate, Date <sup>(p.640)</sup> 3-11-98 Passed House, Date <sup>(p.1567)</sup> 4-14-98  
Vote: Ayes 49 Nays 0 Vote: Ayes 98 Nays 0  
Approved April 23, 1998

A BILL FOR

1 An Act providing for the regulation of bail enforcement  
2 businesses and their agents, limiting their actions,  
3 establishing fees, eliminating temporary county-issued  
4 identification for private security agents and investigators,  
5 and providing penalties.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2374

S-5119

10 Amend Senate File 2374 as follows:  
11 1. Page 2, by striking lines 30 through 33.  
12 2. Page 2, line 34, by striking the word "c." and  
13 4 inserting the following: "b."  
14 3. Page 8, by inserting before line 13 the  
15 6 following:  
16 7 "c. The person is a bail enforcement agent from a  
17 8 state that does not license such businesses who has  
18 9 registered with the chief law enforcement officer  
19 10 under section 80A.3A."

By GENE MADDOX

S-5119 FILED MARCH 3, 1998

*Adopted 3-11-98 (p.640)*

S.F. 2374

21  
22  
23

1 Section 1. Section 80A.1, Code 1997, is amended by adding  
2 the following new subsections:

3 NEW SUBSECTION. 0A. "Bail enforcement agent" means a  
4 person engaged in the bail enforcement business, including  
5 licensees and persons engaged in the bail enforcement business  
6 whose principal place of business is in a state other than  
7 Iowa.

8 NEW SUBSECTION. 0B. "Bail enforcement business" means the  
9 business of taking or attempting to take into custody the  
10 principal on a surety bond issued or a deposit filed in  
11 relation to a criminal proceeding to assure the presence of  
12 the defendant at trial, but does not include such actions that  
13 are undertaken by a peace officer or a law enforcement officer  
14 in the course of the officer's official duties.

15 NEW SUBSECTION. 0C. "Chief law enforcement officer" means  
16 the county sheriff, chief of police, or other chief law  
17 enforcement officer in the local governmental unit where a  
18 defendant is located.

19 NEW SUBSECTION. 1A. "Defendant" means the principal on a  
20 surety bond issued or deposit filed in relation to a criminal  
21 proceeding in order to assure the presence of the defendant at  
22 trial.

23 Sec. 2. Section 80A.3, Code 1997, is amended to read as  
24 follows:

25 80A.3 LICENSE REQUIRED.

26 1. A person shall not operate a bail enforcement business,  
27 private investigation business, or private security business,  
28 or otherwise employ persons in the operation of such a  
29 business located within this state unless the person is  
30 licensed by the commissioner in accordance with this chapter.

31 2. A license issued under this chapter expires two years  
32 from the date issued.

33 Sec. 3. NEW SECTION. 80A.3A NOTIFICATION OF AND  
34 REGISTRATION WITH LOCAL LAW ENFORCEMENT.

35 1. A bail enforcement agent employed by a licensee shall

1 not take or attempt to take into custody the principal on a  
2 bail surety bond without notifying the chief law enforcement  
3 officer of the local governmental subdivision where the  
4 defendant is believed to be present. The bail enforcement  
5 agent shall disclose the location where the defendant is  
6 believed to be and the bail enforcement agent's intended  
7 actions.

8 2. A person or employee of a person who operates a bail  
9 enforcement business in a state other than Iowa and who enters  
10 Iowa in pursuit of a defendant who has violated the conditions  
11 of a surety bond issued in a state other than Iowa or has  
12 otherwise violated conditions of bail imposed by a court in a  
13 state other than Iowa shall not take or attempt to take the  
14 defendant into custody without first registering with the  
15 chief law enforcement officer of the local governmental  
16 subdivision where the defendant is believed to be present.

17 a. Registration shall require presentation of the  
18 following documents:

19 (1) A license to operate a bail enforcement business in  
20 the state of origin, if the state licenses such businesses.  
21 Otherwise, the person or employee shall present other  
22 documentation relating to the location of the principal place  
23 of business of the bail enforcement business.

24 (2) The surety bond, order from the local prosecuting  
25 authority in the state of origin, or other documents relating  
26 to the authority of the person under the laws of the state of  
27 origin to pursue the defendant.

28 (3) A copy of any bond for liability for actions of the  
29 person or employee.

30 b. A bail enforcement agent who is not licensed by the  
31 state of origin as a bail bond agent or its equivalent shall  
32 not take or attempt to take the defendant into custody, in  
33 accordance with section 811.12.

34 c. A bail enforcement agent who registers with the chief  
35 law enforcement officer of the local governmental subdivision

1 in accordance with this section and complies with  
2 requirements, other than licensure, for acts by a bail  
3 enforcement agent within this state, including the limitations  
4 imposed by sections 811.8 and 811.12, shall not be subject to  
5 civil liability in this state other than as prescribed in this  
6 chapter, notwithstanding any other provision under the Code or  
7 common law.

8 Sec. 4. Section 80A.5, Code 1997, is amended to read as  
9 follows:

10 80A.5 LICENSEE FEE.

11 1. An applicant for a license shall deposit with each  
12 application the fee for the license.

13 2. If the application is approved the deposited amount  
14 shall be applied on the license fee. If the application is  
15 disapproved, the deposited amount shall be refunded to the  
16 applicant.

17 3. The fee for a two-year license for a bail enforcement  
18 business, a private investigative agency, and or a private  
19 security agency license is one hundred dollars.

20 Sec. 5. Section 80A.6, Code 1997, is amended to read as  
21 follows:

22 80A.6 DISPLAY OF LICENSE.

23 A ~~private-investigation-agency-and-private-security-agency~~  
24 licensee shall conspicuously display the license in the  
25 principal place of business of the agency or business.

26 Sec. 6. Section 80A.7, Code 1997, is amended to read as  
27 follows:

28 80A.7 IDENTIFICATION CARDS.

29 1. The department shall issue to each licensee and to each  
30 employee of the licensee an identification card in a form  
31 approved by the commissioner. The application for a permanent  
32 identification card shall include a temporary identification  
33 card valid for fourteen days from the date of receipt of the  
34 application by the applicant.

35 2. The fee for each identification card is ten dollars.

1     3. It is unlawful for an agency licensed under this  
2 chapter to employ a person to act in the bail enforcement  
3 business, private investigation business, or private security  
4 business unless the person has in the person's immediate  
5 possession an identification card issued under this section.

6     4. The licensee is responsible for the use of  
7 identification cards by the licensee's employees and shall  
8 return an employee's card to the department upon termination  
9 of the employee's service. Identification cards remain the  
10 property of the department. ~~The fee for each card is ten~~  
11 ~~dollars.~~

12     ~~A county sheriff may issue temporary identification cards~~  
13 ~~valid for fourteen days to a person employed by an agency~~  
14 ~~licensed as a private security business or private~~  
15 ~~investigation business on a temporary basis in the county.~~  
16 ~~The fee for each card is five dollars. The form of the~~  
17 ~~temporary identification cards shall be approved by the~~  
18 ~~commissioner.~~

19     Sec. 7. Section 80A.9, Code 1997, is amended to read as  
20 follows:

21     80A.9   BADGES -- UNIFORMS.

22     1. A licensee or an employee of a licensee shall not use a  
23 badge in connection with the activities of the licensee's  
24 business unless the badge has been prescribed or approved by  
25 the commissioner.

26     2. A licensee or an employee of a licensee shall not use  
27 an identification card other than the card issued by the  
28 department or make a statement with the intent to give the  
29 impression that the licensee or employee is a peace officer.

30     3. A uniform worn by a licensee or employee of a licensee  
31 shall conform with rules adopted by the commissioner.

32     4. A bail enforcement agent other than a licensee shall  
33 not do any of the following:

34     a. Use a badge or identification card other than one which  
35 is in accordance with the laws of the state of origin.

1 b. Wear a uniform or make a statement that gives the  
2 impression that the agent is a peace officer.

3 Sec. 8. Section 80A.10, Code 1997, is amended to read as  
4 follows:

5 80A.10 LICENSEE'S BOND.

6 1. A license shall not be issued unless the applicant  
7 files with the department a surety bond, in an a minimum  
8 amount of-five as follows:

9 a. Five thousand dollars in the case of an agency licensed  
10 to conduct only a bail enforcement business, private security  
11 business, or a private investigation business, or-in-the  
12 amount-of-ten.

13 b. Ten thousand dollars in the case of an agency licensed  
14 to conduct both more than one type of business licensed under  
15 this chapter.

16 2. The bond shall be issued by a surety company authorized  
17 to do business in this state and shall be conditioned on the  
18 faithful, lawful, and honest conduct of the applicant and  
19 those employed by the applicant in carrying on the business  
20 licensed.

21 3. The bond shall provide that a person injured by a  
22 breach of the conditions of the bond may bring an action on  
23 the bond to recover legal damages suffered by reason of the  
24 breach. However, the aggregate liability of the surety for  
25 all damages shall not exceed the amount of the bond.

26 4. Bonds issued and filed with the department shall remain  
27 in force and effect until the surety has terminated future  
28 liability by a written thirty days' notice to the department.

29 Sec. 9. Section 80A.10A, Code 1997, is amended to read as  
30 follows:

31 80A.10A LICENSEE'S PROOF OF FINANCIAL RESPONSIBILITY.

32 A Notwithstanding the minimum bond amount that must be  
33 filed in accordance with section 80A.10, a license shall not  
34 be issued unless the applicant furnishes proof acceptable to  
35 the commissioner of the applicant's ability to respond in

1 damages for liability on account of accidents or wrongdoings  
2 occurring subsequent to the effective date of the proof,  
3 arising out of the ownership and operation of a private  
4 security business, ~~or a private investigation business, or~~  
5 bail enforcement business.

6 Sec. 10. Section 80A.16, Code 1997, is amended to read as  
7 follows:

8 80A.16 PENALTIES.

9 1. A person who violates any of the provisions of this  
10 chapter where no other penalty is provided is guilty of a  
11 simple misdemeanor.

12 2. A person who ~~makes~~ does any of the following is guilty  
13 of a fraudulent practice:

14 a. Makes a false statement or representation in an  
15 application or statement filed with the commissioner, as  
16 required by this chapter, ~~or a person who falsely.~~

17 b. Falsely states, or represents, or fails to disclose as  
18 required by this chapter, that the person has been or is a  
19 private investigator, or private security agent, or advertises  
20 ~~as such is guilty of a fraudulent practice~~ bail enforcement  
21 agent.

22 c. Falsely advertises that the person is a licensed  
23 private investigator, private security agent, or bail  
24 enforcement agent.

25 3. A person who is subject to the licensing requirements  
26 of this chapter and who engages in a private investigation or  
27 private security business as defined in this chapter, without  
28 possessing a current valid license as provided by this  
29 chapter, is guilty of a serious misdemeanor.

30 4. A person who is subject to the licensing requirements  
31 of this chapter for a bail enforcement business or bail  
32 enforcement agent, and who operates a bail enforcement  
33 business or who acts as a bail enforcement agent for a bail  
34 enforcement business, without possessing a current valid  
35 license, is guilty of a class "D" felony.

1     Sec. 11. NEW SECTION. 80A.16A CIVIL LIABILITY OF BAIL  
2 ENFORCEMENT AGENTS.

3     1. A person other than a defendant who is injured in  
4 person or property by the actions of a bail enforcement agent  
5 in taking or attempting to take a defendant into custody may  
6 bring a civil action for damages against such agent and the  
7 bail enforcement business for breach of any applicable  
8 standard of care.

9     2. Notwithstanding the limitation of liability of any  
10 surety for the actions of a bail enforcement agent or bail  
11 enforcement business, the court shall enter a judgment against  
12 a bail enforcement agent or bail enforcement business  
13 determined to have breached the applicable standard of care.  
14 The judgment shall include an award of treble damages, and  
15 recovery of costs and reasonable attorney fees.

16     Sec. 12. Section 811.8, subsection 3, Code 1997, is  
17 amended to read as follows:

18     3. For the purpose of surrendering the defendant, the  
19 surety, subject to the limitations of section 811.12 and  
20 chapter 80A, at any time ~~before-finally-charged-and-at-any~~  
21 ~~place-within-the-state,~~ may arrest the defendant, or, by a  
22 written authority endorsed on a certified copy of the  
23 undertaking, may empower any person of suitable age and  
24 discretion to do so. In making an arrest pursuant to this  
25 subsection, the surety or any person empowered by the surety  
26 shall possess no more authority than a peace officer would  
27 possess in making a lawful arrest under section 804.8, 804.13,  
28 804.14, or 804.15.

29     Sec. 13. NEW SECTION. 811.12 LIMITATIONS.

30     1. A person shall not take or attempt to take into custody  
31 the principal on a surety bond, either as a surety on a bond  
32 in a criminal proceeding or as an agent of such surety, unless  
33 such person has complied with all of the following, if  
34 applicable:

35     a. Notification or registration with a chief law



1 enforcement officer under section 80A.3A.

2 b. Licensing requirements for bail enforcement businesses  
3 and bail enforcement agents under chapter 80A.

4 2. A person other than a certified peace officer shall not  
5 be authorized to apprehend, detain, or arrest a principal on a  
6 bond, wherever issued, unless one of the following applies:

7 a. The person is a bail enforcement agent licensed under  
8 chapter 80A and has notified the chief law enforcement officer  
9 under section 80A.3A.

10 b. The person is a bail enforcement agent licensed under  
11 the laws of another state and has registered with the chief  
12 law enforcement officer under section 80A.3A.

13 Sec. 14. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
14 3, shall not apply to this Act.

15 EXPLANATION

16 This bill relates to regulation of bail enforcement  
17 businesses and acts by bail enforcement agents. Changes are  
18 made to both Code chapter 80A, relating to regulation of  
19 private investigative agencies and security agents, and to  
20 Code chapter 811, relating to apprehension of the principal on  
21 a criminal surety bond.

22 The bill requires that persons operating a bail enforcement  
23 business with its principal place of business within the state  
24 obtain a license from the department of public safety. The  
25 license is valid for two years and requires payment of a \$100  
26 fee for the license and a \$10 fee for each identification card  
27 for each employee. An applicant must meet statutory  
28 qualifications set forth in Code section 80A.4 and must file a  
29 bond with the department under Code section 80A.10. An  
30 applicant must also prove financial responsibility for damages  
31 arising out of the business, pursuant to Code section 80A.10A.

32 The bill eliminates temporary identification cards issued  
33 for private security agents and investigators under Code  
34 section 80A.7.

35 The bill also requires any licensed bail enforcement agent

1 to notify the local law enforcement agency before taking any  
2 action to apprehend a defendant. A bail enforcement agent  
3 from another state is required to register with the local law  
4 enforcement agency, providing copies of a license to operate a  
5 bail enforcement business, if the state of origin licenses  
6 such a business, and surety bonds related to the defendant in  
7 question and for liability for the agent's acts, if such a  
8 bond has been issued. A bail enforcement agent who is not  
9 licensed in Iowa or the state of origin may not take a  
10 defendant into custody. A bail enforcement agent from another  
11 state who registers as required and otherwise complies with  
12 the requirements for bail enforcement agents other than  
13 licensure is subject to civil liability only as provided in  
14 the chapter.

15 Licensees and their employees are subject to the rule of  
16 the department of public safety with regard to the use of  
17 badges, uniforms, and identification cards. Bail enforcement  
18 agents from states other than Iowa are not permitted to use  
19 badges or identification cards other than those permitted by  
20 the state of origin, and shall not wear a uniform or make a  
21 statement that gives the impression that the agent is a peace  
22 officer.

23 A person who is subject to the licensing requirements for  
24 bail enforcement businesses or bail enforcement agents and  
25 acts without a valid current license shall be guilty of a  
26 class "D" felony. A person is guilty of a fraudulent practice  
27 for committing any of the following: (1) making a false  
28 statement or representation in a document filed with the  
29 department of public safety; (2) making a false statement or  
30 representation or failing to disclose, when required, that the  
31 person is or has been a private investigator, security agent,  
32 or bail enforcement agent; or (3) makes a false advertisement  
33 that the person is a licensed private investigator, security  
34 agent, or bail enforcement agent. Depending upon the value of  
35 the property or service obtained by means of fraudulent

1 practices, such an act is punishable as a simple misdemeanor  
2 (\$50 to \$100 fine, or up to 30 days in jail) up to a class "C"  
3 felony (\$500 to \$10,000 fine, with the option of up to a 10-  
4 year sentence). A violation of any other provision of Code  
5 chapter 80A where a penalty is not expressly stated is a  
6 simple misdemeanor.

7 The bill adds definitions to Code chapter 80A related to  
8 the addition of bail enforcement businesses to that chapter.

9 Bail enforcement businesses and bail enforcement agencies  
10 are subject to civil liability for injury to persons other  
11 than the defendant being apprehended. Such a business or  
12 agent that is held to have violated the applicable standard of  
13 care shall be held liable for treble damages, costs, and  
14 reasonable attorney fees.

15 New Code section 811.12 sets forth prerequisites for a  
16 person to meet prior to apprehending a defendant, including  
17 licensure where appropriate, and registration or notification  
18 of local law enforcement agencies. If a person is not  
19 licensed by any state as a bail enforcement agent, only a  
20 peace officer can apprehend the defendant. A person  
21 apprehending a defendant may not act beyond the authority  
22 granted to a peace officer under similar circumstances.

23 This bill may include a state mandate as defined in Code  
24 section 25B.3. This bill makes inapplicable Code section  
25 25B.2, subsection 3, which would relieve a political  
26 subdivision from complying with a state mandate if funding for  
27 the cost of the state mandate is not provided or specified.  
28 Therefore, political subdivisions are required to comply with  
29 any state mandate included in this bill.

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SENATE FILE 2374  
FISCAL NOTE

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A fiscal note for Senate File 2374 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 2374 relates to regulation of bail enforcement businesses and acts by bail enforcement agents. The Bill provides for licensure and penalties for failure to maintain licensure.

ASSUMPTIONS

1. A bail enforcement business operating without a current valid license, is guilty of a class D felony.
2. Annually there are seven business law violations of all types using the most recent data available.
3. The revenue raised from the \$100 business license fee and the \$10 bail enforcement business employee identification card will be used by the Department of Public Safety to offset the costs of issuing the licenses.

CORRECTIONAL IMPACT

Senate File 2374 is not expected to have a significant correctional impact

FISCAL IMPACT

Senate File 2724 is not expected to have a significant fiscal impact.

SOURCES

Criminal and Juvenile Justice Planning Division,  
Department of Human Rights  
Department of Corrections  
Judicial Department  
Department of Public Safety

(LSB 3241SV, DHK)

FILED MARCH 10, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR

H-3/13/98 Judiciary  
H. 3/20/98 Do Pass

H-3/21/98 UNFINISHED BUSINESS CALENDAR

SENATE FILE 2374  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2107)

(AS AMENDED AND PASSED BY THE SENATE MARCH 11, 1998)

----- - New Language by the Senate

(P.1325) \* - Language Stricken by the Senate

Passed Senate, Date 4/16/98 Passed House, Date 4-14-98  
Vote: Ayes 47 Nays 0 Vote: Ayes 98 Nays 0  
Approved April 23, 1998

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S.F. 2374

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5 licensees and persons engaged in the bail enforcement business  
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10 principal on a surety bond issued or a deposit filed in  
11 relation to a criminal proceeding to assure the presence of  
12 the defendant at trial, but does not include such actions that  
13 are undertaken by a peace officer or a law enforcement officer  
14 in the course of the officer's official duties.

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16 the county sheriff, chief of police, or other chief law  
17 enforcement officer in the local governmental unit where a  
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28 or otherwise employ persons in the operation of such a  
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30 licensed by the commissioner in accordance with this chapter.

31 2. A license issued under this chapter expires two years  
32 from the date issued.

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5 agent shall disclose the location where the defendant is  
6 believed to be and the bail enforcement agent's intended  
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8 2. A person or employee of a person who operates a bail  
9 enforcement business in a state other than Iowa and who enters  
10 Iowa in pursuit of a defendant who has violated the conditions  
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21 Otherwise, the person or employee shall present other  
22 documentation relating to the location of the principal place  
23 of business of the bail enforcement business.

24 (2) The surety bond, order from the local prosecuting  
25 authority in the state of origin, or other documents relating  
26 to the authority of the person under the laws of the state of  
27 origin to pursue the defendant.

28 (3) A copy of any bond for liability for actions of the  
29 person or employee.

\* 30 b. A bail enforcement agent who registers with the chief  
31 law enforcement officer of the local governmental subdivision  
32 in accordance with this section and complies with  
33 requirements, other than licensure, for acts by a bail  
34 enforcement agent within this state, including the limitations  
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29 card valid for fourteen days from the date of receipt of the  
30 application by the applicant.

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22 2. A licensee or an employee of a licensee shall not use  
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28 4. A bail enforcement agent other than a licensee shall  
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32 b. Wear a uniform or make a statement that gives the  
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7 business, or a private investigation business, ~~or-in-the~~  
8 ~~amount-of-ten.~~

9 b. Ten thousand dollars in the case of an agency licensed  
10 to conduct both more than one type of business licensed under  
11 this chapter.

12 2. The bond shall be issued by a surety company authorized  
13 to do business in this state and shall be conditioned on the  
14 faithful, lawful, and honest conduct of the applicant and  
15 those employed by the applicant in carrying on the business  
16 licensed.

17 3. The bond shall provide that a person injured by a  
18 breach of the conditions of the bond may bring an action on  
19 the bond to recover legal damages suffered by reason of the  
20 breach. However, the aggregate liability of the surety for  
21 all damages shall not exceed the amount of the bond.

22 4. Bonds issued and filed with the department shall remain  
23 in force and effect until the surety has terminated future  
24 liability by a written thirty days' notice to the department.

25 Sec. 9. Section 80A.10A, Code 1997, is amended to read as  
26 follows:

27 80A.10A LICENSEE'S PROOF OF FINANCIAL RESPONSIBILITY.

28 A Notwithstanding the minimum bond amount that must be  
29 filed in accordance with section 80A.10, a license shall not  
30 be issued unless the applicant furnishes proof acceptable to  
31 the commissioner of the applicant's ability to respond in  
32 damages for liability on account of accidents or wrongdoings  
33 occurring subsequent to the effective date of the proof,  
34 arising out of the ownership and operation of a private  
35 security business, ~~or-a~~ private investigation business, or

1 bail enforcement business.

2     Sec. 10. Section 80A.16, Code 1997, is amended to read as  
3 follows:

4     80A.16 PENALTIES.

5     1. A person who violates any of the provisions of this  
6 chapter where no other penalty is provided is guilty of a  
7 simple misdemeanor.

8     2. A person who makes does any of the following is guilty  
9 of a fraudulent practice:

10     a. Makes a false statement or representation in an  
11 application or statement filed with the commissioner, as  
12 required by this chapter, or a person who falsely,

13     b. Falsely states, or represents, or fails to disclose as  
14 required by this chapter, that the person has been or is a  
15 private investigator, or private security agent, or advertises  
16 as such is guilty of a fraudulent practice bail enforcement  
17 agent.

18     c. Falsely advertises that the person is a licensed  
19 private investigator, private security agent, or bail  
20 enforcement agent.

21     3. A person who is subject to the licensing requirements  
22 of this chapter and who engages in a private investigation or  
23 private security business as defined in this chapter, without  
24 possessing a current valid license as provided by this  
25 chapter, is guilty of a serious misdemeanor.

26     4. A person who is subject to the licensing requirements  
27 of this chapter for a bail enforcement business or bail  
28 enforcement agent, and who operates a bail enforcement  
29 business or who acts as a bail enforcement agent for a bail  
30 enforcement business, without possessing a current valid  
31 license, is guilty of a class "D" felony.

32     Sec. 11. NEW SECTION. 80A.16A CIVIL LIABILITY OF BAIL  
33 ENFORCEMENT AGENTS.

34     1. A person other than a defendant who is injured in  
35 person or property by the actions of a bail enforcement agent

1 in taking or attempting to take a defendant into custody may  
2 bring a civil action for damages against such agent and the  
3 bail enforcement business for breach of any applicable  
4 standard of care.

5 2. Notwithstanding the limitation of liability of any  
6 surety for the actions of a bail enforcement agent or bail  
7 enforcement business, the court shall enter a judgment against  
8 a bail enforcement agent or bail enforcement business  
9 determined to have breached the applicable standard of care.  
10 The judgment shall include an award of treble damages, and  
11 recovery of costs and reasonable attorney fees.

12 Sec. 12. Section 811.8, subsection 3, Code 1997, is  
13 amended to read as follows:

14 3. For the purpose of surrendering the defendant, the  
15 surety, subject to the limitations of section 811.12 and  
16 chapter 80A, at any time ~~before-finally-charged-and-at-any~~  
17 ~~place-within-the-state,~~ may arrest the defendant, or, by a  
18 written authority endorsed on a certified copy of the  
19 undertaking, may empower any person of suitable age and  
20 discretion to do so. In making an arrest pursuant to this  
21 subsection, the surety or any person empowered by the surety  
22 shall possess no more authority than a peace officer would  
23 possess in making a lawful arrest under section 804.8, 804.13,  
24 804.14, or 804.15.

25 Sec. 13. NEW SECTION. 811.12 LIMITATIONS.

26 1. A person shall not take or attempt to take into custody  
27 the principal on a surety bond, either as a surety on a bond  
28 in a criminal proceeding or as an agent of such surety, unless  
29 such person has complied with all of the following, if  
30 applicable:

31 a. Notification or registration with a chief law  
32 enforcement officer under section 80A.3A.

33 b. Licensing requirements for bail enforcement businesses  
34 and bail enforcement agents under chapter 80A.

35 2. A person other than a certified peace officer shall not

1 be authorized to apprehend, detain, or arrest a principal on a  
2 bond, wherever issued, unless one of the following applies:

3 a. The person is a bail enforcement agent licensed under  
4 chapter 80A and has notified the chief law enforcement officer  
5 under section 80A.3A.

6 b. The person is a bail enforcement agent licensed under  
7 the laws of another state and has registered with the chief  
8 law enforcement officer under section 80A.3A.

9 c. The person is a bail enforcement agent from a state  
10 that does not license such businesses who has registered with  
11 the chief law enforcement officer under section 80A.3A.

12 Sec. 14. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
13 3, shall not apply to this Act.

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H-8640

- 1 Amend the amendment, H-8558, to Senate File 2374,  
 2 as amended, passed, and reprinted by the Senate, as  
 3 follows:  
 4 1. Page 1, by inserting after line 2 the  
 5 following:  
 6 "\_\_\_\_. Page 1, by inserting before line 1 the  
 7 following:  
 8 "Sec. 101. NEW SECTION. 80.42 STANDARDS FOR  
 9 PERSONS PROVIDING PRIVATE TRANSPORTATION OF PRISONERS.  
 10 The department of public safety shall adopt rules  
 11 which establish standards for persons engaged in this  
 12 state in the business of transporting prisoners under  
 13 a contract with the Iowa department of corrections or  
 14 a county sheriff, a similar agency from another state,  
 15 or the federal government. The rules shall include,  
 16 but not be limited to, rules which establish age and  
 17 character requirements and govern the carrying of  
 18 weapons by persons transporting prisoners."  
 19 2. Page 1, line 25, by inserting after the word  
 20 "weapons," the following: "and providing for the  
 21 adoption of rules for private transportation of  
 22 prisoners,".  
 23 3. By renumbering as necessary.

By BERNAU of Story

H-8640 FILED MARCH 24, 1998

*O/ords 4/14/98*  
*(p. 1567)*

SENATE FILE 2374

H-8558

- 1 Amend Senate File 2374, as amended, passed, and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 1, by inserting after line 22 the  
 4 following:  
 5 "Sec. \_\_\_\_\_. Section 80A.2, Code 1997, is amended by  
 6 adding the following new subsection:  
 7 NEW SUBSECTION. 9. A person engaged in the  
 8 business of transporting prisoners under a contract  
 9 with the department of corrections, a county sheriff,  
 10 a similar agency from another state, or the federal  
 11 government."  
 12 2. Page 7, by inserting before line 12 the  
 13 following:  
 14 "Sec. \_\_\_\_\_. Section 724.4, subsection 4, Code 1997,  
 15 is amended by adding the following new paragraph:  
 16 NEW PARAGRAPH. k. A person engaged in the  
 17 business of transporting prisoners under a contract  
 18 with the department of corrections, a county sheriff,  
 19 a similar agency from another state, or the federal  
 20 government."  
 21 3. Title page, line 4, by inserting after the  
 22 word "investigators," the following: "exempting  
 23 contractual transportation of prisoners from bail  
 24 enforcement regulation and prohibitions on carrying  
 25 concealed weapons,".  
 26 4. By renumbering as necessary.

By BODDICKER of Cedar

H-8558 FILED MARCH 23, 1998

*W/O 4/14/98 (p. 1567)*

H-8617

1 Amend the amendment, H-8558, to Senate File 2374,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, lines 23 and 24 by striking the words  
5 "bail enforcement regulation" and inserting the  
6 following: "private security regulations".

By BODDICKER of Cedar

H-8617 FILED MARCH 24, 1998

*Order 4/14/98 (p. 1567)*

## SENATE FILE 2374

H-8802

1 Amend Senate File 2374, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, line 10, by striking the word "surety"  
4 and inserting the following: "bail".

5 2. Page 1, line 20, by striking the word "surety"  
6 and inserting the following: "bail".

7 3. Page 2, line 2, by striking the word "surety".

8 4. Page 2, line 11, by striking the word "surety"  
9 and inserting the following: "bail".

10 5. Page 2, line 24, by striking the word "surety"  
11 and inserting the following: "bail".

12 6. Page 7, line 27, by striking the words "surety  
13 bond" and inserting the following: "bail bond".

14 7. Page 7, line 27, by striking the words "on a  
15 bond" and inserting the following: "on a bail bond".

16 8. Page 8, line 2, by inserting before the word  
17 "bond" the following: "bail".

By BODDICKER of Cedar

H-8802 FILED MARCH 31, 1998

*Adopted 4/14/98  
(p. 1567)*

## SENATE FILE 2374

H-8819

1 Amend Senate File 2374, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 7, by inserting before line 12 the  
4 following:

5 "Sec. \_\_\_\_ . NEW SECTION. 356.50 PRIVATE  
6 TRANSPORTATION OF PRISONERS.

7 If a county sheriff contracts with a private person  
8 or entity for the transportation of prisoners to or  
9 from a county jail, the contract shall include  
10 provisions which require the following:

11 1. The private person or any officers or employees  
12 of the private person or private entity shall not have  
13 been convicted of any of the following:

14 a. A felony.

15 b. Within the three-year period immediately  
16 preceding the date of the execution of the contract, a  
17 violation of the laws pertaining to operation of motor  
18 vehicles punishable as a serious misdemeanor or  
19 greater offense.

20 c. Domestic abuse assault in which bodily injury  
21 was inflicted or attempted to be inflicted.

22 d. A crime involving illegal manufacture, use,  
23 possession, sale, or an attempt to illegally  
24 manufacture, use, possess, or sell alcohol or a  
25 controlled substance or other drug.

26 2. The person or persons actually transporting the  
27 prisoners shall be trained and proficient in the safe  
28 use of firearms.

29 3. Any employees of a private entity which has  
30 entered into the contract for transportation of  
31 prisoners shall only possess and use security and  
32 restraint equipment, including any firearms, which has  
33 been issued by the private entity.

34 4. The person or persons actually transporting the  
35 prisoners shall be trained and proficient in  
36 appropriate transportation procedures.

37 5. The person or entity complies, within one year  
38 of publication, with any applicable standards for the  
39 transportation of prisoners promulgated by the  
40 American corrections association."

41 2. Page 8, by inserting before line 12 the  
42 following:

43 "Sec. \_\_\_\_ . NEW SECTION. 904.320 PRIVATE  
44 TRANSPORTATION OF PRISONERS.

45 1. If the director contracts with a private person  
46 or entity for the transportation of inmates to or from  
47 an institution, the contract shall include provisions  
48 which require the following:

49 a. The private person or any officers or employees  
50 of the private person or private entity shall not have

H-8819



H-8819

Page 2

1 been convicted of any of the following:  
2 (1) A felony.  
3 (2) Within the three-year period immediately  
4 preceding the date of the execution of the contract, a  
5 violation of the laws pertaining to operation of motor  
6 vehicles punishable as a serious misdemeanor or  
7 greater offense.  
8 (3) Domestic abuse assault in which bodily injury  
9 was inflicted or attempted to be inflicted.  
10 (4) A crime involving illegal manufacture, use,  
11 possession, sale, or an attempt to illegally  
12 manufacture, use, possess, or sell alcohol or a  
13 controlled substance or other drug.  
14 b. The person or persons actually transporting the  
15 prisoners shall be trained and proficient in the safe  
16 use of firearms.  
17 c. Any employees of a private entity which has  
18 entered into the contract for transportation of  
19 prisoners shall only possess and use security and  
20 restraint equipment, including any firearms, which has  
21 been issued by the private entity.  
22 d. The person or persons actually transporting the  
23 prisoners shall be trained and proficient in  
24 appropriate transportation procedures.  
25 e. The person or entity complies, within one year  
26 of publication, with any applicable standards for the  
27 transportation of prisoners promulgated by the  
28 American corrections association.  
29 2. The department shall adopt rules pertaining to  
30 contracts with private persons or entities providing  
31 transportation of inmates of institutions under the  
32 control of the department."  
33 3. Title page, line 4, by inserting after the  
34 word "investigators," the following: "providing for  
35 certain contractual requirements for the  
36 transportation of prisoners and the adoption of rules  
37 by the department of corrections,".  
38 4. By renumbering as necessary.

By BERNAU of Story

H-8819 FILED MARCH 31, 1998

W/D  
4-14-98  
(P. 1567)

HOUSE AMENDMENT TO  
SENATE FILE 2374

S-5636

- 1 Amend Senate File 2374, as amended, passed, and  
2 reprinted by the Senate, as follows:  
3 1. Page 1, line 10, by striking the word "surety"  
4 and inserting the following: "bail".  
5 2. Page 1, line 20, by striking the word "surety"  
6 and inserting the following: "bail".  
7 3. Page 2, line 2, by striking the word "surety".  
8 4. Page 2, line 11, by striking the word "surety"  
9 and inserting the following: "bail".  
10 5. Page 2, line 24, by striking the word "surety"  
11 and inserting the following: "bail".  
12 6. Page 7, line 27, by striking the words "surety  
13 bond" and inserting the following: "bail bond".  
14 7. Page 7, line 27, by striking the words "on a  
15 bond" and inserting the following: "on a bail bond".  
16 8. Page 8, line 2, by inserting before the word  
17 "bond" the following: "bail".

RECEIVED FROM THE HOUSE

S-5636 FILED APRIL 14, 1998

*Senate Concurred*  
*4-16-98*  
*P. 1325*

Maddox  
King  
Harper

SSB 2107  
Judiciary  
Succeeded By

SENATE/HOUSE ~~FILE~~ HF 2374  
BY (PROPOSED DEPARTMENT OF  
PUBLIC SAFETY BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act providing for the regulation of bail enforcement  
2 businesses and their agents, limiting their actions,  
3 establishing fees, eliminating temporary county-issued  
4 identification for private security agents and investigators,  
5 and providing penalties.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 80A.1, Code 1997, is amended by adding  
2 the following new subsections:

3 NEW SUBSECTION. 0A. "Bail enforcement agent" means a  
4 person engaged in the bail enforcement business, including  
5 licensees and persons engaged in the bail enforcement business  
6 whose principal place of business is in a state other than  
7 Iowa.

8 NEW SUBSECTION. 0B. "Bail enforcement business" means the  
9 business of taking or attempting to take into custody the  
10 principal on a surety bond issued or a deposit filed in  
11 relation to a criminal proceeding to assure the presence of  
12 the defendant at trial, but does not include such actions that  
13 are undertaken by a peace officer or a law enforcement officer  
14 in the course of the officer's official duties.

15 NEW SUBSECTION. 0C. "Chief law enforcement officer" means  
16 the county sheriff, chief of police, or other chief law  
17 enforcement officer in the local governmental unit where a  
18 defendant is located.

19 NEW SUBSECTION. 1A. "Defendant" means the principal on a  
20 surety bond issued or deposit filed in relation to a criminal  
21 proceeding in order to assure the presence of the defendant at  
22 trial.

23 Sec. 2. Section 80A.3, Code 1997, is amended to read as  
24 follows:

25 80A.3 LICENSE REQUIRED.

26 1. A person shall not operate a bail enforcement business,  
27 private investigation business, or private security business,  
28 or otherwise employ persons in the operation of such a  
29 business located within this state unless the person is  
30 licensed by the commissioner in accordance with this chapter.

31 2. A license issued under this chapter expires two years  
32 from the date issued.

33 Sec. 3. NEW SECTION. 80A.3A NOTIFICATION OF AND  
34 REGISTRATION WITH LOCAL LAW ENFORCEMENT.

35 1. A bail enforcement agent employed by a licensee shall

1 not take or attempt to take into custody the principal on a  
2 bail surety bond without notifying the chief law enforcement  
3 officer of the local governmental subdivision where the  
4 defendant is believed to be present. The bail enforcement  
5 agent shall disclose the location where the defendant is  
6 believed to be and the bail enforcement agent's intended  
7 actions.

8 2. A person or employee of a person who operates a bail  
9 enforcement business in a state other than Iowa and who enters  
10 Iowa in pursuit of a defendant who has violated the conditions  
11 of a surety bond issued in a state other than Iowa or has  
12 otherwise violated conditions of bail imposed by a court in a  
13 state other than Iowa shall not take or attempt to take the  
14 defendant into custody without first registering with the  
15 chief law enforcement officer of the local governmental  
16 subdivision where the defendant is believed to be present.

17 a. Registration shall require presentation of the  
18 following documents:

19 (1) A license to operate a bail enforcement business in  
20 the state of origin, if the state licenses such businesses.  
21 Otherwise, the person or employee shall present other  
22 documentation relating to the location of the principal place  
23 of business of the bail enforcement business.

24 (2) The surety bond, order from the local prosecuting  
25 authority in the state of origin, or other documents relating  
26 to the authority of the person under the laws of the state of  
27 origin to pursue the defendant.

28 (3) A copy of any bond for liability for actions of the  
29 person or employee.

30 b. A bail enforcement agent who is not licensed by the  
31 state of origin as a bail bond agent or its equivalent shall  
32 not take or attempt to take the defendant into custody, in  
33 accordance with section 811.12.

34 c. A bail enforcement agent who registers with the chief  
35 law enforcement officer of the local governmental subdivision

1 in accordance with this section and complies with  
2 requirements, other than licensure, for acts by a bail  
3 enforcement agent within this state, including the limitations  
4 imposed by sections 811.8 and 811.12, shall not be subject to  
5 civil liability in this state other than as prescribed in this  
6 chapter, notwithstanding any other provision under the Code or  
7 common law.

8 Sec. 4. Section 80A.5, Code 1997, is amended to read as  
9 follows:

10 80A.5 LICENSEE FEE.

11 1. An applicant for a license shall deposit with each  
12 application the fee for the license.

13 2. If the application is approved the deposited amount  
14 shall be applied on the license fee. If the application is  
15 disapproved, the deposited amount shall be refunded to the  
16 applicant.

17 3. The fee for a two-year license for a bail enforcement  
18 business, a private investigative agency, and or a private  
19 security agency license is one hundred dollars.

20 Sec. 5. Section 80A.6, Code 1997, is amended to read as  
21 follows:

22 80A.6 DISPLAY OF LICENSE.

23 ~~A private-investigation-agency-and-private-security-agency~~  
24 licensee shall conspicuously display the license in the  
25 principal place of business of the agency or business.

26 Sec. 6. Section 80A.7, Code 1997, is amended to read as  
27 follows:

28 80A.7 IDENTIFICATION CARDS.

29 1. The department shall issue to each licensee and to each  
30 employee of the licensee an identification card in a form  
31 approved by the commissioner. The application for a permanent  
32 identification card shall include a temporary identification  
33 card valid for fourteen days from the date of receipt of the  
34 application by the applicant.

35 2. The fee for each identification card is ten dollars.

1     3. It is unlawful for an agency licensed under this  
2 chapter to employ a person to act in the bail enforcement  
3 business, private investigation business, or private security  
4 business unless the person has in the person's immediate  
5 possession an identification card issued under this section.

6     4. The licensee is responsible for the use of  
7 identification cards by the licensee's employees and shall  
8 return an employee's card to the department upon termination  
9 of the employee's service. Identification cards remain the  
10 property of the department. ~~The fee for each card is ten~~  
11 ~~dollars.~~

12     ~~A county sheriff may issue temporary identification cards~~  
13 ~~valid for fourteen days to a person employed by an agency~~  
14 ~~licensed as a private security business or private~~  
15 ~~investigation business on a temporary basis in the county.~~  
16 ~~The fee for each card is five dollars. The form of the~~  
17 ~~temporary identification cards shall be approved by the~~  
18 ~~commissioner.~~

19     Sec. 7. Section 80A.9, Code 1997, is amended to read as  
20 follows:

21     80A.9 BADGES -- UNIFORMS.

22     1. A licensee or an employee of a licensee shall not use a  
23 badge in connection with the activities of the licensee's  
24 business unless the badge has been prescribed or approved by  
25 the commissioner.

26     2. A licensee or an employee of a licensee shall not use  
27 an identification card other than the card issued by the  
28 department or make a statement with the intent to give the  
29 impression that the licensee or employee is a peace officer.

30     3. A uniform worn by a licensee or employee of a licensee  
31 shall conform with rules adopted by the commissioner.

32     4. A bail enforcement agent other than a licensee shall  
33 not do any of the following:

34     a. Use a badge or identification card other than one which  
35 is in accordance with the laws of the state of origin.

1 b. Wear a uniform or make a statement that gives the  
2 impression that the agent is a peace officer.

3 Sec. 8. Section 80A.10, Code 1997, is amended to read as  
4 follows:

5 80A.10 LICENSEE'S BOND.

6 1. A license shall not be issued unless the applicant  
7 files with the department a surety bond, in an a minimum  
8 amount of-five as follows:

9 a. Five thousand dollars in the case of an agency licensed  
10 to conduct only a bail enforcement business, private security  
11 business, or a private investigation business, or-in-the  
12 amount-of-ten.

13 b. Ten thousand dollars in the case of an agency licensed  
14 to conduct both more than one type of business licensed under  
15 this chapter.

16 2. The bond shall be issued by a surety company authorized  
17 to do business in this state and shall be conditioned on the  
18 faithful, lawful, and honest conduct of the applicant and  
19 those employed by the applicant in carrying on the business  
20 licensed.

21 3. The bond shall provide that a person injured by a  
22 breach of the conditions of the bond may bring an action on  
23 the bond to recover legal damages suffered by reason of the  
24 breach. However, the aggregate liability of the surety for  
25 all damages shall not exceed the amount of the bond.

26 4. Bonds issued and filed with the department shall remain  
27 in force and effect until the surety has terminated future  
28 liability by a written thirty days' notice to the department.

29 Sec. 9. Section 80A.10A, Code 1997, is amended to read as  
30 follows:

31 80A.10A LICENSEE'S PROOF OF FINANCIAL RESPONSIBILITY.

32 A Notwithstanding the minimum bond amount that must be  
33 filed in accordance with section 80A.10, a license shall not  
34 be issued unless the applicant furnishes proof acceptable to  
35 the commissioner of the applicant's ability to respond in



1 damages for liability on account of accidents or wrongdoings  
2 occurring subsequent to the effective date of the proof,  
3 arising out of the ownership and operation of a private  
4 security business, ~~or a private investigation business,~~ or  
5 bail enforcement business.

6 Sec. 10. Section 80A.16, Code 1997, is amended to read as  
7 follows:

8 80A.16 PENALTIES.

9 1. A person who violates any of the provisions of this  
10 chapter where no other penalty is provided is guilty of a  
11 simple misdemeanor.

12 2. A person who ~~makes~~ does any of the following is guilty  
13 of a fraudulent practice:

14 a. Makes a false statement or representation in an  
15 application or statement filed with the commissioner, as  
16 required by this chapter, ~~or a person who falsely,~~

17 b. Falsely states, or represents, or fails to disclose as  
18 required by this chapter, that the person has been or is a  
19 private investigator, or private security agent, or advertises  
20 ~~as such is guilty of a fraudulent practice~~ bail enforcement  
21 agent.

22 c. Falsely advertises that the person is a licensed  
23 private investigator, private security agent, or bail  
24 enforcement agent.

25 3. A person who is subject to the licensing requirements  
26 of this chapter and who engages in a private investigation or  
27 private security business as defined in this chapter, without  
28 possessing a current valid license as provided by this  
29 chapter, is guilty of a serious misdemeanor.

30 4. A person who is subject to the licensing requirements  
31 of this chapter for a bail enforcement business or bail  
32 enforcement agent, and who operates a bail enforcement  
33 business or who acts as a bail enforcement agent for a bail  
34 enforcement business, without possessing a current valid  
35 license, is guilty of a class "D" felony.

1 Sec. 11. NEW SECTION. 80A.16A CIVIL LIABILITY OF BAIL  
2 ENFORCEMENT AGENTS.

3 1. A person other than a defendant who is injured in  
4 person or property by the actions of a bail enforcement agent  
5 in taking or attempting to take a defendant into custody may  
6 bring a civil action for damages against such agent and the  
7 bail enforcement business for breach of any applicable  
8 standard of care.

9 2. Notwithstanding the limitation of liability of any  
10 surety for the actions of a bail enforcement agent or bail  
11 enforcement business, the court shall enter a judgment against  
12 a bail enforcement agent or bail enforcement business  
13 determined to have breached the applicable standard of care.  
14 The judgment shall include an award of treble damages, and  
15 recovery of costs and reasonable attorney fees.

16 Sec. 12. Section 811.8, subsection 3, Code 1997, is  
17 amended to read as follows:

18 3. For the purpose of surrendering the defendant, the  
19 surety, subject to the limitations of section 811.12 and  
20 chapter 80A, at any time ~~before-finally-charged-and-at-any~~  
21 ~~place-within-the-state,~~ may arrest the defendant, or, by a  
22 written authority endorsed on a certified copy of the  
23 undertaking, may empower any person of suitable age and  
24 discretion to do so. In making an arrest pursuant to this  
25 subsection, the surety or any person empowered by the surety  
26 shall possess no more authority than a peace officer would  
27 possess in making a lawful arrest under section 804.8, 804.13,  
28 804.14, or 804.15.

29 Sec. 13. NEW SECTION. 811.12 LIMITATIONS.

30 1. A person shall not take or attempt to take into custody  
31 the principal on a surety bond, either as a surety on a bond  
32 in a criminal proceeding or as an agent of such surety, unless  
33 such person has complied with all of the following, if  
34 applicable:

35 a. Notification or registration with a chief law

1 enforcement officer under section 80A.3A.

2 b. Licensing requirements for bail enforcement businesses  
3 and bail enforcement agents under chapter 80A.

4 2. A person other than a certified peace officer shall not  
5 be authorized to apprehend, detain, or arrest a principal on a  
6 bond, wherever issued, unless one of the following applies:

7 a. The person is a bail enforcement agent licensed under  
8 chapter 80A and has notified the chief law enforcement officer  
9 under section 80A.3A.

10 b. The person is a bail enforcement agent licensed under  
11 the laws of another state and has registered with the chief  
12 law enforcement officer under section 80A.3A.

13 Sec. 14. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
14 3, shall not apply to this Act.

15 EXPLANATION

16 This bill relates to regulation of bail enforcement  
17 businesses and acts by bail enforcement agents. Changes are  
18 made to both Code chapter 80A, relating to regulation of  
19 private investigative agencies and security agents, and to  
20 Code chapter 811, relating to apprehension of the principal on  
21 a criminal surety bond.

22 The bill requires that persons operating a bail enforcement  
23 business with its principal place of business within the state  
24 obtain a license from the department of public safety. The  
25 license is valid for two years and requires payment of a \$100  
26 fee for the license and a \$10 fee for each identification card  
27 for each employee. An applicant must meet statutory  
28 qualifications set forth in Code section 80A.4 and must file a  
29 bond with the department under Code section 80A.10. An  
30 applicant must also prove financial responsibility for damages  
31 arising out of the business, pursuant to Code section 80A.10A.

32 The bill eliminates temporary identification cards issued  
33 for private security agents and investigators under Code  
34 section 80A.7.

35 The bill also requires any licensed bail enforcement agent

1 to notify the local law enforcement agency before taking any  
2 action to apprehend a defendant. A bail enforcement agent  
3 from another state is required to register with the local law  
4 enforcement agency, providing copies of a license to operate a  
5 bail enforcement business, if the state of origin licenses  
6 such a business, and surety bonds related to the defendant in  
7 question and for liability for the agent's acts, if such a  
8 bond has been issued. A bail enforcement agent who is not  
9 licensed in Iowa or the state of origin may not take a  
10 defendant into custody. A bail enforcement agent from another  
11 state who registers as required and otherwise complies with  
12 the requirements for bail enforcement agents other than  
13 licensure is subject to civil liability only as provided in  
14 the chapter.

15 Licensees and their employees are subject to the rule of  
16 the department of public safety with regard to the use of  
17 badges, uniforms, and identification cards. Bail enforcement  
18 agents from states other than Iowa are not permitted to use  
19 badges or identification cards other than those permitted by  
20 the state of origin, and shall not wear a uniform or make a  
21 statement that gives the impression that the agent is a peace  
22 officer.

23 A person who is subject to the licensing requirements for  
24 bail enforcement businesses or bail enforcement agents and  
25 acts without a valid current license shall be guilty of a  
26 class "D" felony. A person is guilty of a fraudulent practice  
27 for committing any of the following: (1) making a false  
28 statement or representation in a document filed with the  
29 department of public safety; (2) making a false statement or  
30 representation or failing to disclose, when required, that the  
31 person is or has been a private investigator, security agent,  
32 or bail enforcement agent; or (3) makes a false advertisement  
33 that the person is a licensed private investigator, security  
34 agent, or bail enforcement agent. Depending upon the value of  
35 the property or service obtained by means of fraudulent

1 practices, such an act is punishable as a simple misdemeanor  
 2 (\$50 to \$100 fine, or up to 30 days in jail) up to a class "C"  
 3 felony (\$500 to \$10,000 fine, with the option of up to a 10-  
 4 year sentence). A violation of any other provision of Code  
 5 chapter 80A where a penalty is not expressly stated is a  
 6 simple misdemeanor.

7 The bill adds definitions to Code chapter 80A related to  
 8 the addition of bail enforcement businesses to that chapter.

9 Bail enforcement businesses and bail enforcement agencies  
 10 are subject to civil liability for injury to persons other  
 11 than the defendant being apprehended. Such a business or  
 12 agent that is held to have violated the applicable standard of  
 13 care shall be held liable for treble damages, costs, and  
 14 reasonable attorney fees.

15 New Code section 811.12 sets forth prerequisites for a  
 16 person to meet prior to apprehending a defendant, including  
 17 licensure where appropriate, and registration or notification  
 18 of local law enforcement agencies. If a person is not  
 19 licensed by any state as a bail enforcement agent, only a  
 20 peace officer can apprehend the defendant. A person  
 21 apprehending a defendant may not act beyond the authority  
 22 granted to a peace officer under similar circumstances.

23 This bill may include a state mandate as defined in Code  
 24 section 25B.3. This bill makes inapplicable Code section  
 25 25B.2, subsection 3, which would relieve a political  
 26 subdivision from complying with a state mandate if funding for  
 27 the cost of the state mandate is not provided or specified.  
 28 Therefore, political subdivisions are required to comply with  
 29 any state mandate included in this bill.

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SSB 2107



TERRY E. BRANSTAD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY  
PAUL H. WIECK II, COMMISSIONER

**TO:** Members of the General Assembly  
**FROM:** Paul Wieck II, Commissioner *P. Wieck*  
**DATE:** November 19, 1997  
**RE:** Licensing of Bail Bond Agents

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This proposal is intended to address the concerns raised by the actions of bail bond agents in Iowa and elsewhere which appear to exceed the authority of certified peace officers by including such businesses and employees into the licensing provisions of Chapter 80A.

Chapter 80A currently provides licensing, bonding, identification, penalties, and other provisions for private investigative agencies and security businesses.

The proposal also provides that civil action may be brought by a person other than the principal on a bail surety bond for damages to person or property occurring out of actions of a bail bond agent and requires that the agent shall notify local law enforcement of the agent's intentions to take a principal into custody.

SENATE FILE 2374

AN ACT

PROVIDING FOR THE REGULATION OF BAIL ENFORCEMENT BUSINESSES AND THEIR AGENTS, LIMITING THEIR ACTIONS, ESTABLISHING FEES, ELIMINATING TEMPORARY COUNTY-ISSUED IDENTIFICATION FOR PRIVATE SECURITY AGENTS AND INVESTIGATORS, AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 80A.1, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Bail enforcement agent" means a person engaged in the bail enforcement business, including licensees and persons engaged in the bail enforcement business whose principal place of business is in a state other than Iowa.

NEW SUBSECTION. 0B. "Bail enforcement business" means the business of taking or attempting to take into custody the principal on a bail bond issued or a deposit filed in relation to a criminal proceeding to assure the presence of the defendant at trial, but does not include such actions that are undertaken by a peace officer or a law enforcement officer in the course of the officer's official duties.

NEW SUBSECTION. 0C. "Chief law enforcement officer" means the county sheriff, chief of police, or other chief law enforcement officer in the local governmental unit where a defendant is located.

NEW SUBSECTION. 1A. "Defendant" means the principal on a bail bond issued or deposit filed in relation to a criminal proceeding in order to assure the presence of the defendant at trial.

Sec. 2. Section 80A.3, Code 1997, is amended to read as follows:

80A.3 LICENSE REQUIRED.

1. A person shall not operate a bail enforcement business, private investigation business, or private security business, or otherwise employ persons in the operation of such a business located within this state unless the person is licensed by the commissioner in accordance with this chapter.

2. A license issued under this chapter expires two years from the date issued.

Sec. 3. NEW SECTION. 80A.3A NOTIFICATION OF AND REGISTRATION WITH LOCAL LAW ENFORCEMENT.

1. A bail enforcement agent employed by a licensee shall not take or attempt to take into custody the principal on a bail bond without notifying the chief law enforcement officer of the local governmental subdivision where the defendant is believed to be present. The bail enforcement agent shall disclose the location where the defendant is believed to be and the bail enforcement agent's intended actions.

2. A person or employee of a person who operates a bail enforcement business in a state other than Iowa and who enters Iowa in pursuit of a defendant who has violated the conditions of a bail bond issued in a state other than Iowa or has otherwise violated conditions of bail imposed by a court in a state other than Iowa shall not take or attempt to take the defendant into custody without first registering with the chief law enforcement officer of the local governmental subdivision where the defendant is believed to be present.

a. Registration shall require presentation of the following documents:

(1) A license to operate a bail enforcement business in the state of origin, if the state licenses such businesses. Otherwise, the person or employee shall present other documentation relating to the location of the principal place of business of the bail enforcement business.

(2) The bail bond, order from the local prosecuting authority in the state of origin, or other documents relating to the authority of the person under the laws of the state of origin to pursue the defendant.

(3) A copy of any bond for liability for actions of the person or employee.

b. A bail enforcement agent who registers with the chief law enforcement officer of the local governmental subdivision in accordance with this section and complies with requirements, other than licensure, for acts by a bail enforcement agent within this state, including the limitations imposed by sections 811.8 and 811.12, shall not be subject to civil liability in this state other than as prescribed in this chapter, notwithstanding any other provision under the Code or common law.

Sec. 4. Section 80A.5, Code 1997, is amended to read as follows:

80A.5 LICENSEE FEE.

1. An applicant for a license shall deposit with each application the fee for the license.

2. If the application is approved the deposited amount shall be applied on the license fee. If the application is disapproved, the deposited amount shall be refunded to the applicant.

3. The fee for a two-year license for a bail enforcement business, a private investigative agency, and or a private security agency license is one hundred dollars.

Sec. 5. Section 80A.6, Code 1997, is amended to read as follows:

80A.6 DISPLAY OF LICENSE.

A private-investigation-agency-and-private-security-agency licensee shall conspicuously display the license in the principal place of business of the agency or business.

Sec. 6. Section 80A.7, Code 1997, is amended to read as follows:

80A.7 IDENTIFICATION CARDS.

1. The department shall issue to each licensee and to each employee of the licensee an identification card in a form approved by the commissioner. The application for a permanent identification card shall include a temporary identification card valid for fourteen days from the date of receipt of the application by the applicant.

2. The fee for each identification card is ten dollars.

3. It is unlawful for an agency licensed under this chapter to employ a person to act in the bail enforcement business, private investigation business, or private security business unless the person has in the person's immediate possession an identification card issued under this section.

4. The licensee is responsible for the use of identification cards by the licensee's employees and shall return an employee's card to the department upon termination of the employee's service. Identification cards remain the property of the department. ~~The fee for each card is ten dollars.~~

~~A county sheriff may issue temporary identification cards valid for fourteen days to a person employed by an agency licensed as a private security business or private investigation business on a temporary basis in the county. The fee for each card is five dollars. The form of the temporary identification cards shall be approved by the commissioner.~~

Sec. 7. Section 80A.9, Code 1997, is amended to read as follows:

80A.9 BADGES -- UNIFORMS.

1. A licensee or an employee of a licensee shall not use a badge in connection with the activities of the licensee's business unless the badge has been prescribed or approved by the commissioner.

2. A licensee or an employee of a licensee shall not use an identification card other than the card issued by the department or make a statement with the intent to give the impression that the licensee or employee is a peace officer.

3. A uniform worn by a licensee or employee of a licensee shall conform with rules adopted by the commissioner.

4. A bail enforcement agent other than a licensee shall not do any of the following:

a. Use a badge or identification card other than one which is in accordance with the laws of the state of origin.



b. Wear a uniform or make a statement that gives the impression that the agent is a peace officer.

Sec. 8. Section 80A.10, Code 1997, is amended to read as follows:

80A.10 LICENSEE'S BOND.

1. A license shall not be issued unless the applicant files with the department a surety bond, in an minimum amount of five as follows:

a. Five thousand dollars in the case of an agency licensed to conduct only a bail enforcement business, private security business, or a private investigation business, or in the amount of ten.

b. Ten thousand dollars in the case of an agency licensed to conduct both more than one type of business licensed under this chapter.

2. The bond shall be issued by a surety company authorized to do business in this state and shall be conditioned on the faithful, lawful, and honest conduct of the applicant and those employed by the applicant in carrying on the business licensed.

3. The bond shall provide that a person injured by a breach of the conditions of the bond may bring an action on the bond to recover legal damages suffered by reason of the breach. However, the aggregate liability of the surety for all damages shall not exceed the amount of the bond.

4. Bonds issued and filed with the department shall remain in force and effect until the surety has terminated future liability by a written thirty days' notice to the department.

Sec. 9. Section 80A.10A, Code 1997, is amended to read as follows:

80A.10A LICENSEE'S PROOF OF FINANCIAL RESPONSIBILITY.

A Notwithstanding the minimum bond amount that must be filed in accordance with section 80A.10, a license shall not be issued unless the applicant furnishes proof acceptable to the commissioner of the applicant's ability to respond in damages for liability on account of accidents or wrongdoings occurring subsequent to the effective date of the proof,

arising out of the ownership and operation of a private security business, or a private investigation business, or bail enforcement business.

Sec. 10. Section 80A.16, Code 1997, is amended to read as follows:

80A.16 PENALTIES.

1. A person who violates any of the provisions of this chapter where no other penalty is provided is guilty of a simple misdemeanor.

2. A person who makes does any of the following is guilty of a fraudulent practice:

a. Makes a false statement or representation in an application or statement filed with the commissioner, as required by this chapter, or a person who falsely.

b. Falsely states, or represents, or fails to disclose as required by this chapter, that the person has been or is a private investigator, or private security agent, or advertises as such-is-guilty-of-a-fraudulent-practice bail enforcement agent.

c. Falsely advertises that the person is a licensed private investigator, private security agent, or bail enforcement agent.

3. A person who is subject to the licensing requirements of this chapter and who engages in a private investigation or private security business as defined in this chapter, without possessing a current valid license as provided by this chapter, is guilty of a serious misdemeanor.

4. A person who is subject to the licensing requirements of this chapter for a bail enforcement business or bail enforcement agent, and who operates a bail enforcement business or who acts as a bail enforcement agent for a bail enforcement business, without possessing a current valid license, is guilty of a class "D" felony.

Sec. 11. NEW SECTION. 80A.16A CIVIL LIABILITY OF BAIL ENFORCEMENT AGENTS.

1. A person other than a defendant who is injured in person or property by the actions of a bail enforcement agent

in taking or attempting to take a defendant into custody may bring a civil action for damages against such agent and the bail enforcement business for breach of any applicable standard of care.

2. Notwithstanding the limitation of liability of any surety for the actions of a bail enforcement agent or bail enforcement business, the court shall enter a judgment against a bail enforcement agent or bail enforcement business determined to have breached the applicable standard of care. The judgment shall include an award of treble damages, and recovery of costs and reasonable attorney fees.

Sec. 12. Section 811.8, subsection 3, Code 1997, is amended to read as follows:

3. For the purpose of surrendering the defendant, the surety, subject to the limitations of section 811.12 and chapter 80A, at any time before-finally-charged-and-at-any place-within-the-state, may arrest the defendant, or, by a written authority endorsed on a certified copy of the undertaking, may empower any person of suitable age and discretion to do so. In making an arrest pursuant to this subsection, the surety or any person empowered by the surety shall possess no more authority than a peace officer would possess in making a lawful arrest under section 804.8, 804.13, 804.14, or 804.15.

Sec. 13. NEW SECTION. 811.12 LIMITATIONS.

1. A person shall not take or attempt to take into custody the principal on a bail bond, either as a surety on a bail bond in a criminal proceeding or as an agent of such surety, unless such person has complied with all of the following, if applicable:

a. Notification or registration with a chief law enforcement officer under section 80A.3A.

b. Licensing requirements for bail enforcement businesses and bail enforcement agents under chapter 80A.

2. A person other than a certified peace officer shall not be authorized to apprehend, detain, or arrest a principal on a bail bond, wherever issued, unless one of the following applies:

a. The person is a bail enforcement agent licensed under chapter 80A and has notified the chief law enforcement officer under section 80A.3A.

b. The person is a bail enforcement agent licensed under the laws of another state and has registered with the chief law enforcement officer under section 80A.3A.

c. The person is a bail enforcement agent from a state that does not license such businesses who has registered with the chief law enforcement officer under section 80A.3A.

Sec. 14. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

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MARY E. KRAMER  
President of the Senate

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RON J. CORBETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2374, Seventy-seventh General Assembly.

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MARY PAT GUNDERSON  
Secretary of the Senate

Approved *April 23*, 1998

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TERRY E. BRANSTAD  
Governor