

**SUBJECT:** Regulation of bail bondsmen

**COMMITTEE:** Criminal Jurisprudence — committee substitute recommended

**VOTE:** 7 ayes — Talton, Farrar, Greenberg, Hudson, Nixon, Pickett, Solis  
0 nays  
2 absent — Place, Pitts

**WITNESSES:** For — Bob Glasgow and J. Sutton Taylor, Professional Bondsmen of Texas; Donald Lee, Conference of Urban Counties  
  
Against — Ronnie Earle, Travis County; Kathleen Braddock, Harris County District Attorney's Office; Carol Oeller; Betty Blackwell, Texas Criminal Defense Lawyers Association (TCDLA); Bruce Carr, Harris County Sheriff's Department

**DIGEST:** CSHB 2418 would amend VACS art. 2372-p, regulating bail bondsmen, to do the following:

- Establish new eligibility requirements for new bail bondsmen, increasing the minimum age from 18 to 21, setting new education standards and prohibiting certain persons from being bondsmen. In order to be licensed, bondsmen would need to have a high school diploma or its equivalency, and 20 hours of bondsman's continuing education. Bondsmen would also be required to complete at least eight hours of continuing education every year in order to renew a license. The attorney general would decide if a class is reasonably related to the bonding business and would issue registration cards. Bondsmen could not be, or be married to, certain law enforcement or court personnel. The bill would exempt currently licensed bondsmen from many of these requirements.
- Set up new procedures for licensing of bondsmen in counties without bail bond boards (generally those with populations of less than 110,000). In these counties, the sheriff would issue licenses to persons or corporations meeting the education and continuing education eligibility requirements.

The bill specifies that other provisions of the act would have no application in such counties.

- Require persons executing bonds for a bondsman to apply to the county bail bond board for an identification card. ID cards could not be issued to persons employed in certain law enforcement or court functions or persons married to such employees. In addition, a card could not be issued to any person who less than 10 years previously had been found guilty of a felony or a Class A or B misdemeanor involving moral turpitude. The ID cards would be subject to licensing provisions covering revocation by the board, appeals procedures in the event of revocation, and prohibited acts. The board could issue more than one ID card to a person working for different licensees if all licensees took full responsibility for the actions of the cardholder.

- Change the potential composition of bail board bonds by allowing an attorney staff person of a justice of the peace to serve instead of a justice of the peace.

- Require that a corporate application be accompanied by a letter from the board of every county where the corporation's designated agent had been licensed. It would change other application requirements, including requiring a sworn statement listing any nonexempt real estate owned by the applicant located in the county in which the applicant seeks licensing, with a current statement from each taxing unit stating that there are no unpaid taxes on the land and the taxable net value of the property, rather than the appraised value. Many other sections of the application would also need to be sworn, including statements agreeing to maintain hazard insurance and mortgagee's title insurance.

- Change the manner for determining value of property held as surety for bonds; property would be valued on its taxable rather than appraised value. However, this would only apply to surety put up after the effective date or an increase of real property pledged by a bondsman before September 1, 1995. In addition, at least one parcel of surety property would need to have a taxable value of at least \$50,000, except in counties with populations of less than 110,000, where at least one parcel of property would need to have a taxable value of at least \$10,000. In addition, each

licensee would need to have a minimum of \$10,000 in cash in his bail security fund, including attorneys who secure bonds in counties with more than \$110,000 people.

CSHB 2418 would also amend the Code of Criminal Procedure to:

- Require that only a court could release a defendant on personal bond who is charged with a felony and has been convicted of a felony within the preceding 10 year period prior to release, or a person charged with a felony who does not submit to controlled substance testing.
- Allow more than one bondsman to execute a bail bond of at least \$50,000, which in the aggregate would equal the total amount of bail set.
- Allow bondsmen, showing diligent efforts, additional time before the bond forfeiture proceeding to apprehend bail jumpers.
- Change that the court could, but would not be required, to remit to the bondsman an amount determined by it after forfeiture and incarceration of the principal within 30 days after final judgment.

The bill would take effect September 1, 1995.

**SUPPORTERS  
SAY:**

CSHB 2418 would make necessary reforms to the bail bond law in the interest of professionalizing the industry and protecting the counties served by bail bondsmen. To get a license, bail bondsmen would need to meet upgraded minimum standards as well as new continuing education requirements approved by the attorney general. These requirements would ensure that the 800 currently licensed bail bondsmen in Texas and future bail bondsmen understand and respect the responsibilities of their profession.

The attorney general would oversee continuing education in the interest of making it more uniform, rather than a county-to-county decision. The \$50 registration fee would cover the attorney general's cost for performing these services.

The bill would also tighten financial requirements on bondsmen. Property posted as collateral would have to be in the county in which the bond was issued as opposed to anywhere in the state, as current law allows. In addition, the property value could be determined only by reference to the tax rolls, not by a private appraisal as is now in the law, and there would be higher minimum amounts. This would prevent bondsmen from overstating their financial resources, with the county left holding an empty bag when forfeitures mount up. Although property already designated as surety property would continue to have its appraised value, the bill would allow for a gradual and fair transition to taxable value within a few years.

The bill would prevent fraud and undue influence by preventing licensed bondsmen from being married to a peace officer or court employee. Problems have arisen in the past wherein an officer in charge of release would require a person to go to his or her spouse for a bond. At least 35 states have enacted similar protections against this type of conflict.

Along similar lines, the identification cards would allow the boards to monitor the types of people working for licensed bondsmen and prevent the criminal element from entering into this profession that is involved so heavily with law enforcement and the courts. In addition, the bill would make it clear that a person with an ID card could not act in a manner prohibited by the board for licensees.

To try to discourage bondsmen from executing a bail bond in an amount more than they cover, the bill would allow them to act together to put up separate bonds of at least \$50,000 in the event a person is required to give bail of \$100,000 or more.

**OPPONENTS  
SAY:**

CSHB 2418 would not go far enough to protect counties from losing money. In Harris County, bondsmen consistently turn in appraisals on their property that are extremely inflated. Thus they might put up a piece of land appraised at \$50,000 as collateral for a bond, but when the county takes the property after a forfeiture, the county receives only \$20,000.

Because the surety property of the currently licensed bondsmen would continue to be pledged at its appraised rather than taxable value, the counties would still lose money. In fact, the bill would not help this

problem for at least 15 to 20 years until after the current surety property is taken by the county or the current bondsmen get out of the business.

In addition, the bill would create a role for the Attorney General's Office that seems inappropriate to its purpose. That office has no authority over bondsmen and would not have the expertise or the funds to administer its duties under this act regarding continuing education.

**NOTES:**

The substitute and the original would both make initial and continuing educational requirements, require ID cards, allow a continuance to apprehend a principal, and allow a court to remit surety as it so determines. The original would have allowed a board to subpoena witnesses, allowed a licensed bail bondsmen to issue a warrant and created standing to be heard at an action concerning bail, among other things.

In 1993 the House passed a similar bill, HB 1214 by De La Garza, Carona, Kamel and Place, but it died in the Senate.