

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3303

**FISCAL
NOTE**

By Delegates McGeehan, Hornby, Worrell, Crouse,

White, Horst, Pinson, and Foggin

[Introduced March 11, 2025; referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §51-10A-1, §51-10A-2, §51-10A-3, §51-10A-4, §51-10A-5, and
2 §60A-7-706 of the Code of West Virginia, 1931, as amended; and to amend said code by
3 adding a new section designated §51-10A-1a, relating to expanding the authority of bail
4 bond enforcers, bounty hunters, and private investigators; authorizing bail bond enforcers,
5 bounty hunters, and private investigators to apprehend and arrest defendants on certain
6 warrants; authorizing payment under the Civil Forfeiture Act for defendant apprehension;
7 stating a registration preference for retired members of the United States Armed Forces;
8 requiring the Secretary of State to publish a list of registered bail bond enforcers, bounty
9 hunters, and private investigators; and clarifying prohibited conduct and unauthorized acts.

Be it enacted by the Legislature of West Virginia:

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 10A. BAIL BOND ENFORCERS.

§51-10A-1. Definitions.

1 As used in this article:

2 (a) "Bail bondsman" means any person, partnership or corporation engaged for profit in the
3 business of furnishing bail, making bonds or entering into undertakings, as surety, for the
4 appearance of persons charged with a criminal offense or violation of law punishable by fine or
5 imprisonment before any court within or without this state. The term "bail bondsman" includes, but
6 is not limited to, persons conducting a bonding business as defined in ~~section one, article ten of~~
7 this chapter §51-10-1 et seq. of this code.

8 (b) "Bail bond enforcer", "bounty hunter", or "private investigator", as used in this article,
9 means a person who ~~on behalf of a bail bondsman~~ enters this state or is present in this state for the
10 purposes of: (1) Assisting a bail bondsman in presenting the defendant in court or to a law-
11 enforcement agency when required; (2) assisting in the apprehension and surrender of the
12 defendant to a court or to a law-enforcement agency; (3) keeping a defendant under surveillance;

or (4) executing bonds on behalf of a bail bondsman when a power of attorney has been duly recorded; or (5) executing warrants for the following offenses:

(A) §60A-4-401(a)(i), Possession of a Controlled Substance with Intent to Deliver;

(B) §60A-4-401(a)(ii), Delivery of a Controlled Substance;

(C) §60A-4-406, Delivery within 1,000 Feet of a School;

(D) §60A-4-409, Transportation of Schedule I or II Substance into the State;

(E) §61-2-9(a), Malicious/Unlawful Assault;

(F) §61-2a(d), (e), (f), Stalking While Protective Order in Place;

(G) §61-2-9d, Strangulation;

(H) §61-2-14, Concealment of a Child;

(I) §61-2-28(d), Third Offense Domestic Battery;

(J) §61-3C-14b(a), Solicitation of a Minor;

(K) §61-8A-1, *et seq.*, Distribution of Sexually Explicit Conduct of Minors;

(L) §61-8B-3, First Degree Sexual Assault;

(M) §61-8B-4, Second Degree Sexual Assault;

(N) §61-8B-5, Third Degree Sexual Assault;

(O) §61-8B-7, First Degree Sexual Abuse;

(P) §61-8C-1, *et seq.*, Filming of Sexually Explicit Conduct of Minors;

(Q) §61-8D-2a, Child Abuse Resulting in Death;

(R) §61-8D-3, Child Abuse Creating Substantial Risk of Serious Bodily Injury or Death;

(S) §61-8D-5, Sexual Abuse by Parent, Guardian, Custodian;

(T) §61-8D-6, Sexual Exploitation of a Minor; and

(U) §61-14-2, Human Trafficking;

Provided, That the bail bond enforcer, bounty hunter, or private investigator gives advance notice to city, county, or state law enforcement at least four hours before apprehension of a defendant, with such notice identifying a defendant's location and the bail bond enforcer's intent to arrest:

39 Provided, however, That upon apprehension, a bail bond enforcer, bounty hunter, or private
40 investigator shall deliver a defendant to a court or law-enforcement agency within twenty-four
41 hours of apprehension. The term "bail bond enforcer" does not include a duly licensed attorney-at-
42 law or a law-enforcement officer assisting a bail bondsman, but shall include persons who are
43 licensed as private investigators pursuant to §30-18-1 et seq. of this code.

§51-10A-1a. Payment for defendant apprehension.

1 For each defendant apprehended upon a valid warrant under §51-10A-1 of this code, a bail
2 bondsman, bail bond enforcer, or private investigator acting under this article shall receive a
3 payment of \$3,000 from a special law-enforcement investigation fund established under the West
4 Virginia Contraband Forfeiture Act, §60A-7-701 et seq. of this code. Such payment shall be made
5 within 90 days of apprehension.

§51-10A-2. Registration of bail bond enforcers, bounty hunters, or private investigators
and authorization by bail bondsman required; fees.

1 (a) No person may act in the capacity of a bail bond enforcer or bounty hunter within this
2 state or perform any of the functions, duties, or powers prescribed for bail bond enforcers or
3 bounty hunters under section one of this article unless duly registered with the West Virginia state
4 police as provided in this section.

5 (b) The superintendent of the West Virginia state police shall design registration,
6 authorization and notice forms, which, at minimum, shall require:

7 (1) Identifying information as to the registrant and at least one bail bondsman on whose
8 behalf he or she is authorized to act as agent: *Provided*, That a registrant may not act on behalf of
9 any bail bondsman until authorization to act is filed with the superintendent;

10 (2) A complete set of the registrant's fingerprints, certified by an authorized law-
11 enforcement officer;

12 (3) A recent credential-sized, full-face photograph of the registrant;

13 (4) Certification, under penalties of perjury, that the registrant is at least twenty-one years

of age, is a citizen of the United States, and has never been convicted of a felony in any state of the United States;

(5) Authorization in writing, as provided in subsection (b) or (c) of this section, from any bail bondsman on whose behalf the bail bond enforcer is authorized to enter this state or act within this state; and

(6) Other information as the superintendent determines is reasonable and necessary; Provided, That the superintendent, in registering a bail bond enforcer, bounty hunter, or private investigator pursuant to this section shall give preference to ~~retired members~~ veterans of the United States Armed Forces.

(c) A bail bondsman conducting a bonding business in this state may grant continuing authorization to a bail bond enforcer, bounty hunter, or private investigator who is a citizen and resident of this state to act as his or her agent on a continuing basis, for a period of time not to exceed two years, either statewide or within named counties or judicial circuits of the state, with respect to all defendants for whom the bail bondsman acts as surety to secure an appearance. A continuing authorization shall state the expiration date of the authorization on the face of the document.

(d) A bail bondsman within or without this state may grant authorization to a bail bond enforcer, bounty hunter, or private investigator licensed under §30-18-1 et seq. of this code, within or without this state to act as his or her agent with respect to a named defendant or named defendants, for a period of time not to exceed 60 days, in which case notice in advance of any action to the West Virginia State Police of the time and place of any proposed action within this state with respect to any defendant, and the date any bail bond enforcer who is not a resident of this state will enter the state, is required. An authorization shall state the expiration date of the authorization on the face of the document.

(e) The superintendent may require any reasonable interrogatories or examinations relating to a registrant's qualifications or other matters which are reasonably necessary to protect

the public.

(f)(1) The superintendent may establish and collect a reasonable registration fee not to exceed \$50 to accompany registration, and a filing fee not to exceed \$10 to accompany the filing of any authorization, to be used for the purposes of defraying administrative and other expenses incurred due to the enactment of this article. No fee is authorized for the filing of notices required under this article.

(2) There is hereby created in the State Treasury a special account, designated the "bail bond enforcer account." All fees collected pursuant to the provisions of this article shall be deposited in the bail bond enforcer account. Expenditures from the account shall be for the purposes set forth in this subsection and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon the fulfillment of the provisions set forth in §5A-2-1 *et seq.* of this code: *Provided*, That for the fiscal year ending June 30, 2000, expenditures are authorized from collections rather than pursuant to an appropriation by the Legislature.

(g) The superintendent is authorized to file and disseminate an interpretive rule for the purpose of providing information and guidance to prospective registrants, bail bondsmen, and the general public with respect to the enforcement of this article. The superintendent is charged with the enforcement of this article in the civil and criminal courts of the state and may take any lawful action reasonably necessary to effectuate its purposes.

(h) Effective July 1, 2025, the Secretary of State shall publish to its official website a list of all bail bond enforcers, bounty hunters, and private investigators as registered with the West Virginia State Police, and shall update the list annually.

§51-10A-3. Effect of authorization.

A bail bond enforcer, bounty hunter, or private investigator authorized or employed by a bail bondsman to act within this state with respect to any defendant whose custody or appearance the bail bond enforcer, bounty hunter, or private investigator secures or attempts to secure, or

4 whose apprehension on a warrant the bail bond enforcer, bounty hunter, or private investigator
5 secures or attempts to secure, is the agent of the bail bondsman for any act related to the
6 purposes set forth in section one of this article. A bail bond enforcer, bounty hunter, or private
7 investigator who acts in that capacity within this state is the agent of the bail bondsman with whom
8 the bail bond enforcer has an agreement or written or verbal contract, whether or not authorization
9 is filed with the West Virginia State Police as required in section two of this article.

§51-10A-4. Prohibited conduct.

1 A bail bond enforcer, bounty hunter, or private investigator may not:

2 (a) Enter an occupied residential structure by force or without the consent of the occupants
3 who are present at the time of the entry;

4 (b) Conduct a bail recovery arrest or apprehension without written authorization from a bail
5 bondsman;

6 (c) Wear, carry or display any uniform, badge, shield or other insignia or emblem that
7 implies that the bail bond enforcer is an employee, officer or agent of this state, a political
8 subdivision of this state or the federal government. A bail bond enforcer may display identification
9 that indicates his or her status as a bail bond enforcer only; ~~or~~

10 (d) Conduct a bail bond apprehension or arrest or an apprehension or arrest on a warrant
11 as authorized in §51-10A-1 of this code without exercising due care to protect the safety of
12 persons other than the defendant and the property of persons other than the defendant; or

13 (e) Conduct an apprehension or arrest on a warrant as authorized in §51-10A-1 of this
14 code without advance notice to law enforcement.

§51-10A-5. Unauthorized acts; penalties.

1 (a) A person who willfully violates any provision of section four of this article, or who acts as
2 a bail bond enforcer, bounty hunter, or private investigator within this state without filing a
3 registration, authorization or notice required by this article, is guilty of a misdemeanor and, upon
4 conviction thereof, shall be fined not less than \$500 or more than \$10,000, or imprisoned in the

5 county jail not more than sixty days, or both fined and imprisoned.

6 (b) A bail bondsman who, without filing the authorization required in this article, employs or
7 contracts with a bail bond enforcer, bounty hunter, or private investigator who enters this state or
8 acts on the bondsman's behalf within this state; who authorizes an unregistered bail bond enforcer
9 to act on his or her behalf; or whose agent acts in a manner prohibited in section four of this article,
10 is subject to a civil penalty of \$10,000, enforceable by civil action in the circuit court of Kanawha
11 County or the circuit court of any county in which the unauthorized action as a bail bond enforcer,
12 bounty hunter, or private investigator has occurred. The superintendent of the West Virginia State
13 Police is authorized to enforce payment of civil penalties through the courts of this state. Civil
14 penalties pursuant to this section are payable one-half to the State Police Death, Disability and
15 Retirement Fund and one-half to the crime victims compensation fund.

CHAPTER 6A. UNIFORM CONTROLLED SUBSTANCES ACT.

ARTICLE 7. WEST VIRGINIA CONTRABAND FORFEITURE ACT.

§60A-7-706. Disposition of forfeited moneys, securities or other negotiable instruments; distribution of proceeds.

1 (a) Whenever moneys, securities or other negotiable instruments are forfeited under the
2 provisions of this article, such proceeds shall be distributed as follows:

3 (1) Ten percent of the proceeds shall be tendered to the office of the prosecuting attorney
4 which initiated the forfeiture proceeding;

5 (2) The balance shall be deposited in a special law-enforcement investigation fund. The
6 fund may be placed in any interest-bearing depository insured by an agency of the federal
7 government. The fund shall be administered by the chief of the law-enforcement agency that
8 seized the forfeited property.

9 (b) No funds shall be expended from the special law-enforcement investigation fund
10 except as follows:

(1) In the case of the funds belonging to the State Police, the funds shall only be expended at the direction of the Superintendent of the State Police and in accordance with the provisions of §11B-2-1 *et seq.* of this code and the provisions of §12-2-2(b)(10) of this code;

(2) In the case of funds belonging to the office of either the sheriff or prosecuting attorney of any county in which the special fund has been created, the funds therein may only be expended in the manner provided in §7-5-4 and §7-5-5 of this code; ~~and~~

(3) In the case of funds belonging to the police department of any municipality in which the special fund has been created, the funds therein may only be expended in the manner provided in §8-13-22 of this code; and

(4) In accordance with §51-10A-1a of this code following the apprehension or arrest of a defendant by a bail bond enforcer, bounty hunter, or private investigator pursuant to a valid warrant.

NOTE: The purpose of this bill is to expand the authority of bail bond enforcers, bounty hunters, and private investigators; authorize bail bond enforcers, bounty hunters, and private investigators to apprehend and arrest defendants on certain warrants; authorize payment under the Civil Forfeiture Act for defendant apprehension; state a registration preference for retired members of the United States Armed Forces; require the Secretary of State to publish a list of registered bail bond enforcers, bounty hunters, and private investigators; and clarify prohibited conduct and unauthorized acts.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.