

1 HOUSE BILL NO. 62
2 INTRODUCED BY B. MERCER, R. LYNCH
3 BY REQUEST OF THE STATE AUDITOR
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO BAIL BONDS;
6 CREATING A SURETY BAIL BOND INSURANCE LICENSE; PROVIDING FOR APPLICATION AND
7 TRAINING REQUIREMENTS FOR A SURETY BAIL BOND INSURANCE LICENSE; PROVIDING ARREST
8 AUTHORITY TO A SURETY BAIL BOND INSURANCE PROVIDER; AMENDING SECTIONS 33-17-212, 33-
9 26-108, 46-9-401, AND 46-9-510, MCA; AND PROVIDING EFFECTIVE DATES."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12

13 NEW SECTION. **Section 1. Special qualifications for surety bail bond insurance license.** (1)

14 Before approving an application for a surety bail bond insurance license, the commissioner shall verify that the
15 individual:

- 16 (a) is a natural person at least 21 years of age;
- 17 (b) is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- 18 (c) has obtained a high school diploma, a general equivalency diploma or equivalent document, or
19 an equivalent education as determined by the commissioner;
- 20 (d) has complied with the requirements of 33-17-211; AND
- 21 ~~(e) has submitted to the commissioner the results of an examination conducted by a psychiatrist or~~
22 ~~a psychologist licensed to practice in this state that indicate that the individual does not suffer from a~~
23 ~~psychological condition that would adversely affect the ability of the individual to carry out the individual's duties~~
24 ~~as a surety bail bond agent;~~
- 25 ~~(f) has submitted to the commissioner the results of a test to detect the presence of a controlled~~
26 ~~substance in the system of the individual that was administered no earlier than 30 days before the date of the~~
27 ~~application for the license and is negative for the indication of the presence of any controlled substance for~~

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Drafter: Erin Sullivan, 406-444-3594

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- 1 (i) writing reports and completing forms;
- 2 (ii) methods of arrest;
- 3 (iii) nonlethal weapons;
- 4 (iv) the safe retention of weapons;
- 5 (v) qualifications for the use of firearms; and
- 6 (vi) defensive tactics; and

7 (d) the following subjects:

- 8 (i) first aid used in emergencies; and
- 9 (ii) cardiopulmonary resuscitation.

10 (3) In lieu of completing the basic course of training required by subsection (1), an applicant may
11 submit proof to the commissioner that the applicant has completed a course of training required by a municipal,
12 state, or federal law enforcement agency or a branch of the armed forces to carry out the duties of a peace
13 officer.

14 (4) An applicant for a surety bail bond insurance license shall complete the training required by this
15 section within 9 12 months after the date the applicant is employed by a licensed surety bail bond agent. The
16 commissioner may issue a temporary license to an applicant who has not completed the training if the applicant
17 is otherwise qualified to be issued a license as a surety bail bond agent. The temporary license:

- 18 (a) authorizes the applicant to act as a surety bail bond agent while employed by a licensed surety
19 bail bond agent;
- 20 (b) is valid for up to 9 12 months; and
- 21 (c) may not be renewed.

22
23 **NEW SECTION. Section 3. Arrest by surety bail bond insurance producer.** (1) A surety bail bond
24 insurance producer who ~~no longer feels secure in accepting liability for~~ HAS PROBABLE CAUSE TO BELIEVE THAT a
25 principal insured by the surety insurer to which the producer is appointed WILL FAIL TO APPEAR IN COURT, IN
26 VIOLATION OF 46-9-503(2), or has violated a condition of their release, may use reasonable force to arrest and
27 detain the principal only as described in 46-9-510 and this section. The producer shall:

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1 (a) except under exigent circumstances, prior to and no more than 6 hours before attempting to
2 apprehend the principal, notify the local police department or sheriff's department OFFICE of the intent to
3 apprehend the principal in that jurisdiction by telephoning nonemergency dispatch and provide:

- 4 (i) the name and producer license number of the individual who will be effecting the arrest; and
5 (ii) the name and approximate location of the principal; and

6 (b) immediately after the arrest of the principal, notify the local police department or sheriff's
7 department OFFICE by telephoning nonemergency dispatch and provide:

- 8 (i) the name and producer license number of the individual who effected the arrest;
9 (ii) the name of the principal arrested and the description of the location of the arrest; and
10 (iii) if no notification was given under subsection (1)(a), a detailed explanation of the reasons a
11 notification could not be given under subsection (1)(a).

12 (2) As used in this section, the following definitions apply:

13 (a) "Principal" means a defendant or a witness who has been admitted to bail and who is obligated
14 to appear in court as required on penalty of forfeiting bail under a commercial bail bond.

15 (b) "Surety bail bond insurance producer" or "producer" means an insurance producer who is
16 licensed to sell, solicit, or negotiate commercial bail bonds pursuant to Title 33, chapters 17 and 26.

17

18 **Section 4.** Section 33-17-212, MCA, is amended to read:

19 **"33-17-212. Examination required -- exceptions -- fees.** (1) Except as provided in subsection (6),
20 an individual applying for a license is required to pass a written examination. The examination must test the
21 knowledge of the individual concerning each kind of insurance listed in subsection (5) for which application is
22 made, the duties and responsibilities of an insurance producer, and the insurance laws and rules of this state.
23 The examination must be developed and conducted under rules adopted by the commissioner.

24 (2) (a) The commissioner may conduct the examination or make arrangements, including
25 contracting with an outside testing service, for administering the examination. The commissioner may arrange
26 for the testing service to recover the cost of the examination from the applicant.

27 (b) The commissioner may not charge a fee for an applicant taking an examination pertaining to

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1 (b) ~~the surety company a surety bail bond insurance producer licensed to sell, solicit, or negotiate~~
2 ~~commercial bail bonds pursuant to Title 33, chapter 17, may arrest the defendant pursuant to [section 3] and~~
3 ~~surrender the defendant to the court, any peace officer, or any detention center facility of this state. Any arrest~~
4 ~~or surrender pursuant to this subsection (1) must be reported to the commissioner of insurance on a form and~~
5 ~~in a manner to be determined by the commissioner.~~

6 (2) The peace officer or detention center facility shall detain the defendant in custody as upon
7 commitment and shall file a certificate, acknowledging the surrender, in the court having jurisdiction of the
8 defendant. The court shall then order the bail exonerated."

9
10 **NEW SECTION. Section 8. Codification instruction.** (1) [Sections 1 and 2] are intended to be
11 codified as an integral part of Title 33, chapter 17, and the provisions of Title 33, chapter 17, apply to [sections
12 1 and 2].

13 (2) [Section 3] is intended to be codified as an integral part of Title 46, chapter 6, and the
14 provisions of Title 46, chapter 6, applies to [section 3].

15
16 **NEW SECTION. Section 9. Severability.** If a part of [this act] is invalid, all valid parts that are
17 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
18 the part remains in effect in all valid applications that are severable from the invalid applications.

19
20 **COORDINATION SECTION. Section 10. Coordination instruction.** If both Senate Bill No. 172 and
21 [this act] are passed and approved, then Senate Bill No. 172 is void.

22
23 **NEW SECTION. Section 11. Effective dates.** (1) Except as provided in subsection (2), [this act] is
24 effective January 1, 2024.

25 (2) [Sections 1 and 5 through ~~9~~ 10] and this section are effective on passage and approval.

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