

An Act

ENROLLED SENATE
BILL NO. 1013

By: Shortey of the Senate

and

Joyner of the House

An Act relating to professions and occupations; creating the Bail Enforcement and Licensing Act; providing short title; defining terms; requiring licensure; stating penalty; providing enhanced penalty; prohibiting certain persons from licensure; allowing certain dual licensing; prohibiting acting under suspension, revocation or denial; stating certain exceptions; providing for defense from forced entry; authorizing civil action for damages; stating penalty; prohibiting excessive or unreasonable force; requiring training on force continuum; allowing certain force under certain conditions; providing for prosecutions; prohibiting breaking and entering; stating penalty; directing the Council on Law Enforcement Education and Training to enforce certain duties as peace officers; construing authority to appoint staff as peace officers; providing certain powers and duties to the Council; providing for rules and forms; requiring minimum training and continuing education; allowing certain training waivers and credits; allowing investigations of violations and disciplinary actions; providing for administration through use of certain resources and funds; requiring certain personality assessment and procedures for licensure; providing for retired peace officers exemption; prohibiting certain peace officers from application; stating qualifications for licensure; requiring certain liability insurance or bond; stating procedure for license application; setting fees; allowing retention of certain percentage for processing application refunds; requiring national

criminal history check by fingerprints; providing for suspensions, denials and revocations; stating term of license; allowing duplicate licenses for a fee; authorizing disciplinary action; requiring surrender of license upon suspension or revocation; prohibiting use of certain words and phrases; prohibiting certain conduct; prohibiting disclosure of certain information; providing exception; requiring certain identification and information while performing as bail enforcer; directing report of firearm discharge; requiring report of administration of certain substances; requiring certain words on badge, clothing and vehicles; prohibiting certain vehicle equipment; providing procedure for approving training schools and instructors; setting fee; requiring CLEET to approve curriculum and training courses; prohibiting use of weapon and substances without training; granting access to jails; creating the CLEET Bail Enforcement Revolving Fund; providing for funding, deposits and expenditures; amending 59 O.S. 2011, Sections 1303, 1327, 1328, 1329, 1332, as amended by Section 9 of Enrolled House Bill No. 2167 of the 1st Session of the 54th Oklahoma Legislature, and 1332.1, which relate to bail bondsmen; modifying references; updating language; allowing licensed bail enforcer to contract with surety or bondsman to recover defendants; amending 59 O.S. 2011, Sections 1750.2A, 1750.5, as amended by Section 1 of Enrolled House Bill No. 1413 of the 1st Session of the 54th Oklahoma Legislature, and 1750.14, which relate to private investigators, security guards, and CLEET; authorizing injunction for certain violations; granting certain license authority to CLEET; allowing dual licensing of certain professions; providing for concealed or open carry for licensed bail enforcers; stating requirements for firearms; prohibiting conditional license for bail enforcers; requiring nonresident bail enforcers to be licensed or contracted with licensed bail enforcer to apprehend certain persons; exempting law enforcement officers; providing for codification; and providing an effective date.

SUBJECT: Bail enforcement and licensing

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Bail Enforcement and Licensing Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Bail Enforcement and Licensing Act:

1. "Armed bail enforcer" means a bail enforcer having a valid license issued by the Council on Law Enforcement Education and Training authorizing the holder to carry an approved pistol or weapon in the recovery of a defendant pursuant to the Bail Enforcement and Licensing Act;

2. "Bail enforcer" means a person who acts, engages in, solicits or offers services to:

- a. execute a prior to breach recovery of a defendant on an undertaking or bail bond contract, or
- b. execute a recovery of a defendant for failure to appear on an undertaking or bail bond contract issued in this state, another state or the United States.

The term "bail enforcer" does not include any law enforcement officer actively employed by a law enforcement agency recognized in this state, or any of its political subdivisions, another state or the United States, while such officer is engaged in the lawful

performance of duties authorized by his or her employing law enforcement agency, a bondsman licensed in this state and acting under the authority of his or her undertaking or bail contract or a licensed bondsman appointed by an insurer in this state with regard to a defendant on a bond posted by that insurer;

3. "Bail recovery contract" or "client contract" means an agreement to perform the services of a bail enforcer for a client. Only a bail enforcer licensed by the Council may enter into a client contract to perform the services of a bail enforcer. A bail enforcer is liable for his or her acts and omissions while executing a recovery of a defendant pursuant to a client contract;

4. "Client" means a bondsman or surety on an undertaking or bail bond contract issued in this state, another state or the United States that enters into a contract for the services of a bail enforcer;

5. "Council" or "CLEET" means the Council on Law Enforcement Education and Training;

6. "Defendant" means the principal on an undertaking or bail bond contract;

7. "License" means authorization issued by the Council pursuant to the Bail Enforcement and Licensing Act permitting the holder to perform functions and services as a bail enforcer;

8. "Weapon" means taser, stun gun, baton, night stick or any other device used to subdue a defendant, or any noxious substances as defined in paragraph 10 of this subsection;

9. "Recovery" or "surrender" means the presentation of a defendant to the public officer competent to receive the defendant into custody; and

10. "Noxious substance" means OC spray, pepper spray, mace or any substance used as a physiological irritant.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. On and after July 1, 2014, no person shall act or engage in, solicit or offer services, or represent himself or herself, as a bail enforcer as defined by the Bail Enforcement and Licensing Act without first having been issued a valid license by the Council on Law Enforcement Education and Training.

B. On or after July 1, 2014, any person who shall act or engage in, solicit or offer services, or represent himself or herself, as a bail enforcer without a valid license issued by the Council shall be guilty of a felony, upon conviction, punishable by a fine in an amount not exceeding Ten Thousand Dollars (\$10,000.00), or by imprisonment in the custody of the Department of Corrections for a term of not more than three (3) years, or by both such fine and imprisonment.

C. Any person violating the provisions of subsection B of this section while having in his or her possession or under his or her control any firearm or weapon, including a firearm under the authority of the Oklahoma Self-Defense Act, shall be punished, upon conviction, by an additional fine in an amount not exceeding Five Thousand Dollars (\$5,000.00), or by an additional term of imprisonment up to three (3) years, or by both such fine and imprisonment. In addition, the authority to carry the firearm may be permanently revoked by the issuing authority.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.3 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. To prevent a conflict of interest or the appearance of any conflict of interest, and in addition to the qualifications for a bail enforcer pursuant to Section 10 of this act, a person whose employment prohibits such person from being licensed as a bail bondsman as provided in subsection A of Section 1315 of Title 59 of the Oklahoma Statutes shall be prohibited from being licensed as a bail enforcer pursuant to the Bail Enforcement and Licensing Act. In addition, a district attorney, or any employee of an office of a district attorney, or any employee of the Department of Corrections shall be prohibited from being licensed as a bail enforcer or bail recovery agency while employed in such capacity.

B. Nothing in the Bail Enforcement and Licensing Act shall be construed to prohibit a bail bondsman, private investigator or security guard licensed in this state from being dual-licensed pursuant to the Bail Enforcement and Licensing Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.4 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person whose license as a bail enforcer has been suspended, revoked, surrendered or denied, to perform, or assist in the performance of, any function or service as a bail enforcer.

B. It shall be unlawful for a bail enforcer licensed in this state to assist, aid or conspire with an unlicensed person, or a person whose license as a bail enforcer or bail bondsman has been suspended, revoked, surrendered or denied, to engage in any function or service as a bail enforcer. Provided, however, an active duty commissioned peace officer who is off-duty may assist a bail enforcer without having been issued a bail enforcer license.

C. Any violation of this section shall be a violation of the Bail Enforcement and Licensing Act which is punishable as provided in Section 3 of this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.5 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding any provision in Section 643 of Title 21 of the Oklahoma Statutes, the use or attempt to use force by a bail enforcer in the recovery of a defendant as defined in the Bail Enforcement and Licensing Act is prohibited when unnecessarily committed or when the force is excessive or unreasonable in manner, degree or duration.

B. Every bail enforcer shall be trained on the use of force continuum and the rules for use of force promulgated for the Bail Enforcement and Licensing Act.

C. No force shall be authorized which is more than sufficient to temporarily restrain a defendant who has refused to obey a lawful command to surrender to the bail enforcer. The duration and manner of any force used by a bail enforcer shall be only that reasonably necessary to surrender the defendant to the public officer competent to receive such person into custody.

D. Any force used by a bail enforcer in self-defense while recovering a defendant or to defend another from injury or threat of injury while recovering a defendant shall be not more than sufficient to prevent an offense.

E. Any force deemed by the district attorney to be unnecessarily committed or excessive or unreasonable in manner, degree or duration may be prosecuted as a crime committed without justification or excusable cause under an existing provision of law.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.6 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding any other provision of law, it shall be unlawful for a bail enforcer to break into and enter the dwelling house of any defendant or third-party for purposes of recovery or attempted recovery of a defendant either:

1. By forcibly bursting or breaking the wall, or an outer door, window, or shutter of a window of such house or the lock or bolts of such door, or the fastening of such window or shutter;

2. By breaking in any other manner, being armed with a weapon or being assisted or aided by one or more persons then actually present; or

3. By unlocking an outer door by means of false keys or by picking the lock thereof, or by lifting a latch or opening a window.

B. A person violating the provisions of this section shall be guilty of burglary in the first degree and, upon conviction, punished as provided in Section 1436 of Title 21 of the Oklahoma Statutes. Provided, however, the offense and penalty stated in this section shall not apply to a licensed bail enforcer during an active

attempt at recovery of a felony defendant under the following conditions:

- a. the bail enforcer has first-hand or eyes-on knowledge that the defendant entered the dwelling house during an attempt to recover the defendant and the defendant after reasonable request is refusing to surrender,
- b. the bail enforcer has first-hand or eyes-on knowledge that the defendant is actually within the dwelling house and after reasonable request is refusing to surrender, or
- c. the bail enforcer has obtained knowledge confirming beyond a reasonable doubt that the defendant is actually within the dwelling house and after reasonable request refuses to surrender.

For purposes of this subsection, "first-hand knowledge" means information received from direct eye-witness testimony, actual visual contact with and confirmed identification of the defendant by a person who knows the defendant or resides at the dwelling house, or other factual evidence provided directly to the licensed bail enforcer that confirms the identity and presence of the defendant within the dwelling house.

The exceptions to the offense and penalty in this section shall not limit or restrict another person within or without the dwelling house, or owning the dwelling house, from taking any action in response to or to defend a forced entry into such dwelling house, including use of a firearm as may be authorized by law. The use of an exception provided in this subsection by a licensed bail enforcer shall be a fact to be determined by the district attorney in considering whether to prosecute an offense under this section. Any person exercising his or her right to respond or protect the dwelling house or its occupants shall not be liable for injury to another who was forcing entry into such dwelling house. An owner or occupant of a dwelling house may seek damages to his or her property in a civil action if such damage resulted from a forced entry by a licensed bail enforcer.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.7 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Director of the Council on Law Enforcement Education and Training, and any staff member designated by the Director, shall have all the powers and authority of peace officers of this state for the purposes of enforcing the provisions of the Bail Enforcement and Licensing Act, and all other duties which are or may be conferred upon the Council by the Bail Enforcement and Licensing Act. The powers and duties conferred on the Director or any staff member appointed by the Director as a peace officer shall not limit the powers and duties of other peace officers of this state or any political subdivision thereof. Nothing in the Bail Enforcement and Licensing Act shall be construed to restrict the Director from appointing the same staff members as peace officers to enforce both the Oklahoma Security Guard and Private Investigator Act and the Bail Enforcement and Licensing Act.

B. The Council shall have the following powers and duties:

1. To promulgate rules and forms to implement, enforce and carry out the purposes of the Bail Enforcement and Licensing Act;

2. To establish and enforce standards governing the training of persons required to be licensed pursuant to the Bail Enforcement and Licensing Act with respect to:

- a. issuing, denying, or revoking certificates of approval to bail enforcement training schools, and programs administered by the state, a county, a municipality, a private corporation, or an individual,
- b. certifying instructors at approved bail enforcement training schools,
- c. establishing minimum requirements for bail enforcement training schools and periodically reviewing these standards, and
- d. providing for periodic inspection of all bail enforcement training schools or programs;

3. To establish minimum curriculum requirements for training as the Council may require for bail enforcers and armed bail enforcers. Training requirements for unarmed bail enforcers shall be not less than forty (40) hours of instruction which shall be in addition to the Phase I, II, and III training requirements. Training requirements for armed bail enforcers shall be the same as for unarmed bail enforcers plus Phase IV firearm and weapons training;

4. To establish minimum requirements for a mandatory continuing education program for all licensed bail enforcers which shall include, but not be limited to:

- a. establishing a designated minimum number of clock hours of required attendance, not less than twenty-four (24) clock hours during the licensing period, at accredited educational functions,
- b. establishing the penalties to be imposed upon a licensee for failure to comply with the continuing education requirements, and
- c. providing that the expense of such continuing education shall be paid by the licensee participating therein;

5. To grant a waiver of any training requirement, except firearms training and weapons training which shall be required for an armed bail enforcer license, unless the applicant has completed at least one (1) year of full-time employment as an armed security guard, armed private investigator, or CLEET-certified law enforcement officer within the three-year period immediately preceding the date of application and the applicant provides sufficient documentation thereof as may be required by the Council;

6. To grant an applicant credit for fulfilling any prescribed course or courses of training, including firearms training, upon submission of acceptable documentation of comparable training. The Council may grant or refuse any such credit at its discretion;

7. To issue the licenses and identification cards provided for in the Bail Enforcement and Licensing Act;

8. To investigate alleged violations of the Bail Enforcement and Licensing Act, or rules promulgated pursuant thereto, and to deny, suspend, or revoke licenses and identification cards if necessary, or to issue notices of reprimand to licensees with or without probation under the rules promulgated by the Council;

9. To investigate alleged violations of the Bail Enforcement and Licensing Act by persons not licensed in this state as bail enforcers and to impose administrative sanctions pursuant to rule, to seek injunctions pursuant to Section 1750.2A of Title 59 of the Oklahoma Statutes, or seek criminal prosecution, or any and all of the foregoing;

10. To provide all forms for applications, identification cards, badges, and licenses required by the Bail Enforcement and Licensing Act;

11. To immediately suspend a license if a licensee's actions present a danger to the licensee or to the public; and

12. To require additional testing for continuation or reinstatement of a license if a licensee exhibits an inability to exercise reasonable judgment, skill, or safety.

C. The Council may use staff and resources established for the Oklahoma Security Guard and Private Investigator Act to implement, administer and enforce the Bail Enforcement and Licensing Act and shall use funds available from the CLEET Bail Enforcement Revolving Fund created pursuant to Section 21 of this act for necessary financial support for the Bail Enforcement and Licensing Act.

D. Nothing in the Bail Enforcement and Licensing Act or the Oklahoma Security Guard and Private Investigator Act shall be construed to prohibit the Council from authorizing approved training schools or individuals to conduct combined education or training for security guards, private investigators and bail enforcers, including Phases I, II, III and IV training.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.8 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Each applicant for a bail enforcer license shall be administered any current standard form of the Minnesota Multiphasic Personality Inventory (MMPI), or other psychological evaluation instrument approved by the Council on Law Enforcement Education and Training, which shall be administered in conjunction with training in Phase I required by the Bail Enforcement and Licensing Act. The bail enforcer training school administering such instrument shall forward the response data to a psychologist licensed by the State Board of Examiners of Psychologists for evaluation. The licensed psychologist shall be of the applicant's choice. It shall be the responsibility of the applicant to bear the cost of the psychological evaluation. No bail enforcer license shall be issued unless the applicant meets the standards established by the Council for psychological evaluation.

B. If the licensed psychologist is unable to certify the applicant's psychological capability to exercise appropriate judgment, restraint, and self-control, after evaluating the data, the psychologist shall employ whatever other psychological measuring instruments or techniques deemed necessary to form a professional opinion. The use of any psychological measuring instruments or techniques shall require a full and complete written explanation to the Council.

C. The psychologist shall forward a written psychological evaluation, on a form prescribed by the Council, to the Council within fifteen (15) days of the evaluation, even if the applicant is found to be psychologically at risk. The Council may utilize the results of the psychological evaluation for up to six (6) months from the date of the evaluation after which the applicant shall be reexamined. No person who has been found psychologically at risk in the exercise of appropriate judgment, restraint, or self-control shall reapply for certification until one (1) year from the date of being found psychologically at risk.

D. 1. Retired peace officers who have been certified by the Council shall be exempt from the provisions of this section for a period of one (1) year from retirement; provided there is no evidence of an inability to exercise appropriate judgment, restraint, and self-control during prior active duty as a law enforcement officer and upon subsequent retirement.

2. Retired peace officers who are not exempt from this section and who have previously undergone treatment for a mental illness, condition, or disorder which required medication or supervision, as defined by paragraph 7 of Section 1290.10 of Title 21 of the Oklahoma Statutes, shall not be eligible to apply for a bail enforcer license except upon presentation of a certified statement from a licensed physician stating that the person is no longer disabled by any mental or psychiatric illness, condition, or disorder.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.9 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Except as prohibited by Section 4 this act, a bail enforcer license or an armed bail enforcer license may be issued to an applicant meeting the following qualifications. The applicant shall:

1. Be a citizen of the United States or an alien legally residing in the United States and have a minimum of six (6) months legal residence documented in this state;

2. Be at least twenty-one (21) years of age;

3. Have a high school diploma or GED and have successfully completed the training and psychological evaluation requirements for the license applied for, as prescribed by the Council on Law Enforcement Education and Training;

4. Be of good moral character;

5. Have no final victim protection orders issued in any state as a defendant;

6. Have no record of a felony conviction or any expungement or a deferred judgment or suspended sentence for a felony offense, unless at least fifteen (15) years has passed since the completion of the sentence and no other convictions have occurred or are pending. Provided, no person convicted of a felony offense shall be eligible for an armed bail enforcer license;

7. Have no record of conviction for assault or battery, aggravated assault or battery, larceny, theft, false pretense, fraud, embezzlement, false personation of an officer, any offense involving moral turpitude, any offense involving a minor as a victim, any nonconsensual sex offense, any offense involving the possession, use, distribution, or sale of a controlled dangerous substance, any offense of driving while intoxicated or driving under the influence of intoxicating substance, any offense involving a firearm, or any other offense as prescribed by the Council.

- a. If any conviction which disqualifies an applicant occurred more than five (5) years prior to the application date and the Council is convinced the offense constituted an isolated incident and the applicant has been rehabilitated, the Council may, in its discretion, waive the conviction disqualification as provided for in this paragraph and issue an unarmed bail enforcer license, but shall not issue an armed bail enforcer license if the offense involved the use of a firearm, was violent in nature, or was a felony offense other than a driving offense.
- b. Under oath, the applicant shall certify that he or she has no disqualifying convictions as specified in the Bail Enforcement and Licensing Act or by rule of the Council, or that more than five (5) years have lapsed since the completion of the sentence for a disqualifying conviction.
- c. The applicant shall further meet all other qualifications, including, but not limited to, the requirement to provide CLEET and the Oklahoma State Bureau of Investigation with individual fingerprints for a state and national criminal history records search and a current individual photograph with the completed CLEET application for a bail enforcer license.
- d. If upon completion of the required background investigation it is discovered that a disqualifying conviction exists, the Council shall immediately

revoke or deny the bail enforcer license of the applicant;

8. Make a statement that the applicant is not currently undergoing treatment for a mental illness, condition, or disorder, make a statement whether the applicant has ever been adjudicated incompetent or committed to a mental institution, and make a statement regarding any history of illegal drug use or alcohol abuse. Upon presentation by the Council of the name, gender, date of birth, and address of the applicant to the Department of Mental Health and Substance Abuse Services, the Department of Mental Health and Substance Abuse Services shall notify the Council within ten (10) days whether the computerized records of the Department indicate the applicant has ever been involuntarily committed to an Oklahoma state mental institution. For purposes of this subsection, "currently undergoing treatment for a mental illness, condition, or disorder" means the person has been diagnosed by a licensed physician or psychologist as being afflicted with a substantial disorder of thought, mood, perception, psychological orientation, or memory that significantly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life and such condition continues to exist;

9. Make a statement regarding any misdemeanor domestic violence charges;

10. Provide proof of liability insurance or an individual bond in a minimum amount established by the Bail Enforcement and Licensing Act; and

11. Provide a statement of self-employment as a sole proprietor bail enforcer.

B. 1. A bail enforcer shall be required to maintain a physical address and phone number publically available and published in the city or county where the physical address is located. Only a licensed bail enforcer may accept a client contract to perform the services of a bail enforcer.

2. A licensed bail enforcer shall be required to maintain complete records of all clients, defendants and apprehensions, and

agree such records shall be available to CLEET for inspection at any time during regular business hours.

C. 1. All bail enforcers shall obtain and maintain either a liability insurance policy or a surety bond that allows persons to recover for actionable injuries, loss, or damage as a result of the willful, or wrongful acts or omissions of the licensee and protects this state, its agents, officers and employees from judgments against the licensee, and is further conditioned upon the faithful and honest conduct of the licensee.

2. The liability insurance policy or surety bond required in this subsection shall be in the minimum amount of Ten Thousand Dollars (\$10,000.00).

3. Liability insurance policies or bonds issued pursuant to this subsection shall not be modified or canceled unless ten (10) days' prior written notice is given to the Council. All persons insured or bonded pursuant to this subsection shall be insured by an insurance carrier or bonded by a surety company licensed and authorized to do business in the state. Failure to obtain and maintain sufficient liability insurance or bond as provided in the Bail Enforcement and Licensing Act shall be grounds for revocation of a license.

D. Upon written notice, any license may be placed on inactive status.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.10 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. Application for a bail enforcer license shall be made on forms provided by the Council on Law Enforcement Education and Training and shall be submitted in writing by the applicant under oath. The application shall require the applicant to furnish information reasonably required by the Council to implement the provisions of the Bail Enforcement and Licensing Act, including classifiable fingerprints to enable the search of criminal indices for evidence of a prior criminal record, including, but not limited to, a national criminal history record check as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

2. Upon request of the Council, the Oklahoma State Bureau of Investigation and other state and local law enforcement agencies shall furnish a copy of any existent criminal history data relating to an applicant to enable the Council to determine the qualifications and fitness of such applicant for a license.

B. 1. On and after March 1, 2014, the original application and any license renewal shall be accompanied by a fee of:

- a. Three Hundred Dollars (\$300.00) for an unarmed bail enforcer license, or
- b. Four Hundred Dollars (\$400.00) for an armed bail enforcer license.

If an individual does not qualify for the type of license or renewal license requested, the Council shall retain twenty percent (20%) of the licensing fee as a processing fee and refund the remaining amount to the individual or agency submitting payment. In addition to the fees provided in this subsection, the original application for a bail enforcer license shall be accompanied by a nonrefundable fee for a national criminal history record check with fingerprint analysis, as provided in Section 150.9 of Title 74 of the Oklahoma Statutes.

2. A licensee whose license has been suspended may apply for reinstatement of license after the term of the suspension has passed, if otherwise qualified. Any application for reinstatement following a suspension of licensure shall be accompanied by a nonrefundable fee of:

- a. One Hundred Dollars (\$100.00) for the reinstatement of an unarmed bail enforcer license, or
- b. One Hundred Fifty Dollars (\$150.00) for an armed bail enforcer license.

A revoked license shall not be reinstated.

3. A licensee who fails to file a renewal application on or before the expiration of a license shall pay a late fee of Fifty

Dollars (\$50.00) for an unarmed bail enforcer license and a late fee of One Hundred Dollars (\$100.00) for an armed bail enforcer license.

4. The fees charged and collected, including portions of fees retained as processing fees, pursuant to the provisions of this section shall be deposited to the credit of the CLEET Bail Enforcement Revolving Fund created pursuant to Section 21 of this act.

C. On and after July 1, 2014, a bail enforcer license or armed bail enforcer license shall be valid for a period of three (3) years and may be renewed for additional three-year terms.

D. The Council shall devise a system for issuance of licenses for the purpose of evenly distributing the expiration dates of the licenses.

E. Pursuant to rule, the Council may issue a duplicate license to a person licensed pursuant to the provisions of the Bail Enforcement and Licensing Act. On and after July 1, 2014, the Council may assess a fee of Twenty-five Dollars (\$25.00) for the issuance of a duplicate license. The fee shall accompany the request for a duplicate license. All duplicate license fees shall be deposited to the credit of the CLEET Bail Enforcement Revolving Fund created pursuant to Section 21 of this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.11 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A bail enforcer license or armed bail enforcer license shall be subject to denial, suspension, or revocation and/or disciplinary action or administrative fine by the Council on Law Enforcement Education and Training subject to the Administrative Procedures Act for, but not limited to, the following reasons by clear and convincing evidence:

1. Any erroneous or false statement in an application for a license submitted pursuant to the Bail Enforcement and Licensing Act or rules promulgated pursuant thereto;

2. Failure to successfully complete any prescribed phase or course of training as required by the Council;

3. Violation of any provision of the Bail Enforcement and Licensing Act or any rule promulgated pursuant thereto;

4. A conviction for assault or battery, aggravated assault or battery, larceny, theft, false pretense, fraud, embezzlement, false personation of an officer, any offense involving moral turpitude, any offense involving a minor as a victim, any nonconsensual sex offense, any offense involving the possession, use, distribution, or sale of a controlled dangerous substance, any offense of driving while intoxicated or driving under the influence of intoxicating substance, any offense involving a firearm, or any other offense as proscribed by the Council;

5. Use of beverages containing alcohol while armed with a firearm;

6. Knowingly impersonating a law enforcement officer;

7. Improper use of force pursuant to the Bail Enforcement and Licensing Act;

8. Failure to carry and possess proper license, identification or documents required by the Bail Enforcement and Licensing Act or any rules promulgated pursuant thereto;

9. Improper apparel or vehicle pursuant to the Bail Enforcement and Licensing Act;

10. Improper carry, display or use of a firearm, weapon or noxious substance;

11. Unlawful entry into a dwelling house, structure, property or vehicle or improper detention of any person;

12. Employing, authorizing, or permitting an unlicensed person to perform or engage in services as a bail enforcer; or

13. Permitting a person to perform or engage in services as a bail enforcer knowing the person has committed any offense prohibited by the Bail Enforcement and Licensing Act.

B. Upon the effective date of suspension or revocation of any license pursuant to the Bail Enforcement and Licensing Act, the licensee shall have the duty to surrender the license and any identification card issued pursuant thereto to the Council.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.12 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person to mark any vehicle, wear any apparel, or display any badge or identification card bearing the words "police", "deputy", "detective", "officer", "agent", "investigator", "fugitive agent", "recovery agent", "enforcement officer", "bounty hunter", "bail agent", or "recovery detective" or use any other words or phrases that imply that such person is associated with law enforcement or a government agency.

B. Any violation shall be a violation of the Bail Enforcement and Licensing Act which is punishable as provided in Section 3 of this act, or the violator may be prosecuted for false impersonation of an officer.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.13 of Title 59, unless there is created a duplication in numbering, reads as follows:

No person licensed as a bail enforcer or bail recovery agency shall:

1. Invade the privacy of a defendant without lawful authority or divulge any information gained by him or her in the course of employment except as the client may direct as permitted by law, or as may be required by law to be disclosed;

2. Willfully make a false report to any person;

3. Attempt any location, recovery or surrender of a defendant without having in his or her possession a written client contract;

4. Attempt any location, recovery or surrender of a defendant without having in his or her possession a certified copy of the undertaking or bail bond contract;

5. Wear any apparel, badges, shields, ballistic vest or helmet during the recovery of a defendant unless such item is clearly marked "Bail Enforcer";

6. Carry any firearm or weapon in the recovery of a defendant without a valid armed bail enforcer license, or carry any firearm or weapon when wearing bail enforcer apparel and not actively engaged in the recovery of a defendant;

7. Point, display or discharge a firearm or weapon or administer a noxious substance as defined by the Bail Enforcement and Licensing Act in the recovery of a defendant without lawful authority and training as provided by the rules promulgated by the Council on Law Enforcement Education and Training;

8. Wear any uniform or use any title, insignia, badge or identification card or make any statements that would lead a person to believe that he or she is connected in any way with the federal government, a state government, or any political subdivision of a state government, or law enforcement agency, or to permit another person assisting in a recovery of a defendant to do such prohibited acts;

9. Unlawfully enter into the dwelling house, structure, property or vehicle of a defendant or third party;

10. Improperly use force against a defendant or third party;

11. Disobey any local ordinance, state or federal law, including traffic laws, in attempting to locate, recover or surrender a defendant;

12. Use a fictitious name in the recovery of a defendant;

13. Use or modify any vehicle for purposes of bail enforcement that resembles or bears markings or exterior equipment similar to those markings or equipment of an authorized law enforcement agency

in this state, or any of its political subdivisions, or that bear any fictitious name, emblems, stickers, seals or design that would imply to the public that the vehicle is a law enforcement vehicle from this state, another state, any political subdivision of a state, the United States, or another country or territory; or

14. Disobey any rules promulgated for the Bail Enforcement and Licensing Act.

A violation of any provision of this subsection shall be punishable as provided in Section 3 of this act. In addition, the Council may suspend or revoke the license of the bail enforcer as provided by the rules promulgated pursuant to the Bail Enforcement and Licensing Act.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.14 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Council on Law Enforcement Education and Training or its employees shall not disclose application information pertaining to applicants or persons licensed pursuant to the Bail Enforcement and Licensing Act, except:

1. To verify the current license status of an applicant or licensee to the public;
2. As may be necessary to perform duties or comply with rules or law pursuant to the Bail Enforcement and Licensing Act;
3. To a bona fide law enforcement agency or judicial authority, upon request;
4. To an insurance company licensed in this state for purposes of issuing a bond for licensure or for claims purposes;
5. To provide the published name, address and phone number, upon request by the public; or
6. As required by court order.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.15 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Each bail enforcer licensed pursuant to the Bail Enforcer and Licensing Act shall carry a valid driver license or state-issued photo identification card and the bail enforcer badge authorized or issued by the Council on Law Enforcement Education and Training at all times while performing the functions and services of a bail enforcer in this state.

B. 1. Each discharge of a firearm by any person during the recovery or surrender of a defendant pursuant to the Bail Enforcement and Licensing Act shall be immediately reported to the law enforcement agency having jurisdiction where such firearm was discharged.

2. Each discharge of or use of a firearm or weapon or any noxious substance as defined in the Bail Enforcement and Licensing Act shall be reported to the Council who shall keep records of all such occurrences.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.16 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The words "Bail Enforcer" shall be displayed in bold letters on all clothing worn during the recovery of a defendant and such words together with the person's valid state-issued license number shall be on the badge authorized by or issued by CLEET, which badge shall be in the possession of and visibly displayed by the bail enforcer during the recovery of a defendant.

B. Vehicles used by a bail enforcer, if marked, must bear the words "Bail Enforcer". No such vehicle shall be equipped with a siren, a lamp with a red or blue lens, or an overhead light or lights with red or blue lens.

C. Any violation of provisions of this section shall be punishable as provided in Section 3 of this act. In addition, the Council on Law Enforcement Education and Training may suspend or

revoke the license pursuant to the rules promulgated for such prohibited conduct.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.17 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. On and after the effective date of this act, private schools desiring to conduct any or all phases of bail enforcement training shall submit an application for a certificate of approval to the Council on Law Enforcement Education and Training. The application shall be accompanied by a fee of Three Hundred Dollars (\$300.00). The certificate shall be renewed annually by July 1. The renewal fee shall be Three Hundred Dollars (\$300.00). If the school does not qualify for a certificate or renewal certificate, the Council shall retain twenty percent (20%) of the fee as a processing fee and refund the balance to the school. The processing fee shall be credited and deposited in the CLEET Bail Enforcement Revolving Fund created pursuant to Section 21 of this act.

B. A listing of qualified and certified bail enforcement training schools shall be available from the Council. Any certified school may conduct continuing education courses on subjects approved by the Council.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.18 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The firearm training for armed bail enforcers may include the reduction targets for weapons fired at fifty (50) feet to simulate weapons fired at seventy-five (75) feet in indoor ranges. All indoor ranges for this training shall have a minimum of three firing lanes and be approved by the Council on Law Enforcement Education and Training.

B. The Council shall approve the standards and curriculum for approved training schools on training and use of tasers, stun guns and other approved weapons and the administration of noxious substances as defined in the Bail Enforcement and Licensing Act. No bail enforcer shall be permitted to carry a weapon or administer noxious substances in the recovery of a defendant without successful

completion of the training requirement established by the Council for bail enforcers.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.19 of Title 59, unless there is created a duplication in numbering, reads as follows:

Every bail enforcer who holds a valid license in this state shall have access to the jails of this state for the purpose of surrendering persons recovered pursuant to the Bail Enforcement and Licensing Act, and the rules adopted by the Council on Law Enforcement Education and Training. Each surrender of a person to jail by a licensed bail enforcer shall require presentation of a copy of the bail undertaking, contract for recovery of the defendant by the bail enforcer, or a copy of the warrant for arrest and surrender to custody for failure to appear.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1350.20 of Title 59, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Council on Law Enforcement Education and Training to be designated the "CLEET Bail Enforcement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all application fees, license fees, renewal fees, late fees, administrative fines, and other funds assessed or collected pursuant to the Bail Enforcement and Licensing Act. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Council for the implementation, administration and enforcement of the Bail Enforcement and Licensing Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of State Finance for approval and payment.

SECTION 22. AMENDATORY 59 O.S. 2011, Section 1303, is amended to read as follows:

Section 1303. A. No person shall act in the capacity of a bail bondsman or perform any of the functions, duties or powers prescribed for bail bondsmen under the provisions of ~~the act~~ Section

1301 et seq. of this title, unless that person shall be qualified and licensed as provided in Section 1301 et seq. of this act; title or as authorized pursuant to the Bail Enforcement and Licensing Act. Provided, however, ~~that~~ none of the provisions or terms of this section shall prohibit any individual or individuals from ~~(1)~~ pledging:

1. Pledging real or other property as security for a bail bond for himself, herself or another in judicial proceedings who does not receive, or is not promised, a fee or charge for his or her services provided such person shall not be permitted to make in excess of ten bonds per year; or, ~~(2) executing~~

2. Executing any bail bond for an insurer, pursuant to a bail bond service agreement entered into between such insurer and any automobile club or association, financing institution, insurance company or other organization or association, on behalf of a person required to furnish bail in connection with any violation of law arising out of the use of a motor vehicle.

B. No license shall be issued except in compliance with Section 1301 et seq. of this act; title and none shall be issued except to an individual. License renewals shall be granted subject to all other provisions of Section 1301 et seq. of this act; title.

A corporation as such shall not be licensed. Nothing herein contained shall be construed as repealing Section 11 of Title 5 of the Oklahoma Statutes; and it is further provided that licensed attorneys are prohibited from signing any bonds as surety in any civil or criminal action pending or about to be filed in any court of this state.

SECTION 23. AMENDATORY 59 O.S. 2011, Section 1327, is amended to read as follows:

Section 1327. A. At any time before there has been a breach of the undertaking in any type of bail provided herein, the surety or bondsman or a licensed bail enforcer pursuant to a client contract authorized by the Bail Enforcement and Licensing Act may surrender the defendant, or the defendant may surrender himself or herself, to the official to whose custody the defendant was committed at the time bail was taken, or to the official into whose custody the

defendant would have been given had he or she been committed. The defendant may be surrendered without the return of premium for the bond if he or she has been guilty of nonpayment of premium, changes address without notifying his or her bondsman, conceals himself or herself, leaves the jurisdiction of the court without the permission of his or her bondsman, or violates his or her contract with the bondsman in any way that does harm to the bondsman, or the surety, or violates his or her obligation to the court. When a bondsman or surety, or a licensed bail enforcer, surrenders a defendant pursuant to this subsection, the bondsman or surety shall file written notification of the surrender. After surrender, and upon filing of written notification of the surrender, the bond shall be exonerated and the clerk shall enter a minute in the case exonerating the bond.

B. If the defendant has been placed in custody of another jurisdiction, the district attorney shall direct a hold order to the official, judge or law enforcement agency where the defendant is in custody. All reasonable expenses accrued in returning the defendant to the original court shall be borne by the bondsman who posted the bond with that court. Upon application, the bond in the original court shall be exonerated when the hold order is placed and upon proof of payment of expenses by the bondsman.

C. If the defendant has been arrested on new charges and is in the custody of the same jurisdiction in which the bondsman or surety has posted an appearance bond or bonds for the defendant, and the bond or bonds have not been exonerated, and certified copies of bonds are not reasonably available, the bondsman or surety may recommit the defendant to be held in custody on the charges for which the bondsman or surety has previously posted appearance bonds thereon, in accordance with the following procedure:

1. On a Recommitment of Defendant by Bondsman form approved by the Administrative Office of the Courts, the bondsman or surety shall personally affix his or her signature to an affidavit attesting to the following:

- a. the defendant is presently in the custody of the jurisdiction in which the bondsman or surety has posted a bond or bonds,
- b. the case number, if any, assigned to each bond,

- c. that the bond or bonds have not been exonerated, and
- d. the specific charges and bond amount or amounts;

2. The bondsman or surety shall present the Recommitment of Defendant by Bondsman form to the official in whose custody the defendant is being held, and the official shall detain the defendant in his or her custody, thereon, as upon a commitment, and by a certificate in writing acknowledging the surrender; and

3. When a bondsman or surety recommitts a defendant pursuant to this subsection, the bondsman or surety shall file a written notification thereof to the court, and after such notification, the bond or bonds shall be exonerated, and the clerk shall enter a minute in the case exonerating the bond or bonds.

D. When a defendant does appear before the court as required by law and enters a plea of guilty or nolo contendere, is sentenced or a deferred sentence is granted as provided for in Section 991c of Title 22 of the Oklahoma Statutes, in such event the undertaking and bondsman and insurer shall be exonerated from further liability.

SECTION 24. AMENDATORY 59 O.S. 2011, Section 1328, is amended to read as follows:

Section 1328. The ~~person~~ bondsman or surety, or a licensed bail enforcer pursuant to a client contract authorized by the Bail Enforcement and Licensing Act, desiring to make a surrender of the defendant shall procure or have in his or her possession a certified copy of the undertakings and ~~deliver them~~ such documents together with the defendant to the official in whose custody the defendant was at the time bail was taken, or to the official into whose custody he or she would have been given had he or she been committed, who shall detain the defendant in ~~his or her~~ custody thereon, as upon a commitment, and by a certificate in writing acknowledge the surrender.

Upon the presentation of a certified copy of the undertaking and the certificate of the official, the court before which the defendant has been held to answer, or the court in which the preliminary examination, indictment, information or appeal, ~~as the~~

~~case may be~~ is pending, shall, upon notice of three (3) days given by the person making the surrender to the prosecuting officer of the court having jurisdiction of the offense, together with a copy of the undertakings and certificate, order that the obligors be exonerated from liability on their undertakings; and, if money has been deposited as bail, that such money or bonds be refunded. If property pledged, a certificate of exoneration be issued and the lien previously filed be released and the undertakings of whatever nature be canceled.

If certified copies of bonds are not reasonably available, the bondsman or surety may recommit the defendant to be held in custody on the charges for which the bondsman or surety has previously posted appearance bonds thereon in accordance with the following procedure:

1. On a Recommitment of Defendant by Bondsman form approved by the Administrative Office of the Courts, the bondsman or surety shall personally affix his or her signature to an affidavit attesting to the following:

- a. the bondsman or surety has posted a bond or bonds for the defendant and is hereby presented to the official in whose custody the defendant was at the time bail was taken,
- b. the case number, if any, assigned to each bond, and
- c. the specific charges and bond amount or amounts;

2. The bondsman or surety shall present the Recommitment of Defendant by Bondsman form to the official in whose custody the defendant is being surrendered, and the official shall detain the defendant in his or her custody thereon, as upon a commitment, and by a certificate in writing acknowledging the surrender; and

3. When a bondsman or surety recommits a defendant pursuant to this subsection, the bondsman or surety shall file a written notification thereof to the courts, and after such notification, the bond or bonds shall be exonerated and the clerk shall enter a minute in the case exonerating the bond or bonds.

SECTION 25. AMENDATORY 59 O.S. 2011, Section 1329, is amended to read as follows:

Section 1329. For the purpose of surrendering the defendant, ~~the:~~

1. The surety may arrest ~~him~~ the defendant before the forfeiture of the undertaking, ~~or~~;

2. The surety, by written authority endorsed on a certified copy of the undertaking, may empower any peace officer to make an arrest of the defendant, first paying the lawful fees therefor; or

3. The bondsman or surety, by contract with a licensed bail enforcer pursuant to the Bail Enforcement and Licensing Act which contract has attached a certified copy of the undertaking, may authorize the bail enforcer to recover and surrender the person.

In addition, the bondsman may surrender the defendant by following the commitment procedures as set forth in subsection C of Section 1327 of this title.

SECTION 26. AMENDATORY 59 O.S. 2011, Section 1332, as amended by Section 9 of Enrolled House Bill No. 2167 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 1332. A. If there is a breach of an undertaking, the court before which the cause is pending shall issue an arrest warrant for the defendant and declare the undertaking and any money, property, or securities that have been deposited as bail, forfeited on the day the defendant failed to appear. In the event of the forfeiture of a bail bond the clerk of the trial court shall, within thirty (30) days after the order and judgment of forfeiture is filed in the court, by mail with return receipt requested, mail a true and correct copy of the order and judgment of forfeiture to the bondsman, and if applicable, the insurer, whose risk it is, and keep at least one copy of the order and judgment of forfeiture on file; provided, the clerk shall not be required to mail the order and judgment of forfeiture to the bondsman or insurer if, within fifteen (15) days from the date of forfeiture, the defendant is returned to custody, the bond is reinstated by the court with the bondsman's

approval, or the order of forfeiture is vacated or set aside by the court. Failure of the clerk of the trial court to comply with the thirty-day notice provision in this subsection shall exonerate the bond by operation of law.

B. The order and judgment of forfeiture shall be on forms prescribed by the Administrative Director of the Courts.

C. 1. The bail bondsman shall have ninety (90) days from receipt of the order and judgment of forfeiture from the court clerk or mailing of the notice if no receipt is made, to return the defendant to custody.

2. The bondsman may contract with a licensed bail enforcer pursuant to the Bail Enforcement and Licensing Act to recover and return the defendant to custody within the ninety-day period, or as agreed.

3. When the court record indicates that the defendant is returned to custody in the jurisdiction where forfeiture occurred, within the ninety-day period, the court clerk shall enter minutes vacating the forfeiture and exonerating the bond. If the defendant has been timely returned to custody, but this fact is not reflected by the court record, the court shall vacate the forfeiture and exonerate the bond.

~~3.~~ 4. For the purposes of this section, "return to custody" means:

- a. the return of the defendant to the appropriate Oklahoma law enforcement agency by the bondsman,
- b. an appearance of the defendant in open court in the court where charged,
- c. arrest or incarceration within this state of the defendant by law enforcement personnel, or
- d. arrest or incarceration of the defendant in any other jurisdiction, provided the bondsman has requested that a hold be placed on the defendant in the jurisdiction wherein the forfeiture lies and has guaranteed

reasonable travel expenses for the return of the defendant.

~~4.~~ 5. In addition to the provisions set forth in paragraphs ~~2~~ 3 and ~~3~~ 4 of this subsection, the bond shall be exonerated by operation of law in any case in which:

- a. the bondsman has requested in writing of the sheriff's department in the county where the forfeiture occurred that the defendant be entered into the computerized records of the National Crime Information Center, and the request has not been honored within fourteen (14) business days of the receipt of the written request by the department, or
- b. the defendant has been arrested outside of this state and the court record shows the prosecuting attorney has declined to proceed with extradition.

~~5.~~ 6. The court may, in its discretion, vacate the order of forfeiture and exonerate the bond where good cause has been shown for:

- a. the defendant's failure to appear, or
- b. the bondsman's failure to return the defendant to custody within ninety (90) days.

D. 1. If, within ninety (90) days from receipt of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made, the defendant is not returned to custody, or the forfeiture has not been stayed, the bondsman and, if applicable, the insurer whose risk it is shall deposit cash or other valuable securities in the face amount of the bond with the court clerk ninety-one (91) days from receipt of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made; provided, this provision shall not apply if the defendant has been returned to custody within the ninety-day period and the court has failed to vacate the forfeiture pursuant to paragraphs ~~2~~ 3 through ~~5~~ 6 of subsection C of this section.

2. After the order and judgment has been paid within ninety-one (91) days from receipt of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made, as required in paragraph 1 of this subsection, the bondsman and, if applicable, the insurer whose risk it is shall have one year from the date payment is due to return the defendant to custody as defined by paragraph ~~3~~ 4 of subsection C of this section. In the event the defendant is returned to custody and all expenses for the defendant's return have been paid by the bondsman or insurer, the bondsman's or insurer's property shall be returned; provided, the request for remitter be made by motion filed within one (1) year from the date payment is due.

3. If the additional cash or securities are not deposited with the court clerk on or before the ninety-first day after the date of service of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made, then the court clerk shall notify the Insurance Commissioner by sending a certified copy of the order and judgment of forfeiture and proof that the bondsman and, if applicable, the insurer have been notified by mail with return receipt requested.

4. The Insurance Commissioner shall:

- a. in the case of a surety bondsman, immediately cancel the license privilege and authorization of the insurer to do business within the State of Oklahoma and cancel the appointment of all surety bondsman agents of the insurer who are licensed by Section 1301 et seq. of this title, and
- b. in the case of a professional bondsman, withdraw the face amount of the forfeiture from the deposit provided in Section 1306 of this title. The Commissioner shall then immediately direct the professional bondsman, by mail with return receipt requested, to make additional deposits to bring the original deposit to the required level. Should the professional bondsman, after being notified, fail to make an additional deposit within ten (10) days from the receipt of notice, or mailing of notice if no receipt is made, the license shall be revoked and all

sums presently on deposit shall be held by the Commissioner to secure the face amounts of bonds outstanding. Upon release of the bonds, any amount of deposit in excess of the bonds shall be returned to the bondsman; provided, the bail bondsman shall have had notice as required by the court, at the place of the bondsman's business, of the trial or hearing of the defendant named in the bond. The notice shall have been at least ten (10) days before the required appearance of the defendant, unless the appearance is scheduled at the time of execution of the bond. Notwithstanding the foregoing, the bondsman shall be deemed to have had notice of the trial or hearing if the defendant named in the bond shall have been recognized back in open court to appear at a date certain for the trial or hearing.

5. If the actions of any bail bondsman force the Insurance Commissioner to withdraw monies, deposited pursuant to Section 1306 of this title, to pay past due executions more than two (2) times in a consecutive twelve-month period, then the license of the professional bondsman shall, in addition to other penalties, be suspended automatically for one (1) year or until a deposit equal to all outstanding forfeitures due is made. The deposit shall be maintained until the Commissioner deems it feasible to reduce the deposit. In no case shall an increased deposit exceed two (2) years unless there is a recurrence of withdrawals as stated herein.

E. 1. If the defendant's failure to appear was the result of the defendant's death or of being in the custody of a court other than the court in which the appearance was scheduled, forfeiture shall not lie. Upon proof to the court that the bondsman paid the order and judgment of forfeiture without knowledge that the defendant was deceased or in custody of another court on the day the defendant was due to appear, and all expenses for the defendant's return have been paid by the bondsman, the bondsman's property shall be returned.

2. Where the defendant is in the custody of another court, the district attorney or municipal attorney shall direct a hold order to the official, judge, court or law enforcement agent wherein the defendant is in custody; provided, that all expenses accrued as a

result of returning the custody of the defendant shall be borne by the bondsman.

F. The district attorney or municipal attorney shall not receive any bonuses or other monies or property for or by reason of services or actions in connection with or collection of bond forfeitures under the provisions of Section 1301 et seq. of this title, except that the court may award a reasonable attorney fee in favor of the prevailing party for legal services in any civil action or proceeding to collect upon a judgment of forfeiture.

G. The above procedures shall be subject to the bondsman's rights of appeal. The bondsman or insurer may appeal an order and judgment of forfeiture pursuant to the procedures for appeal set forth in Section 951 et seq. of Title 12 of the Oklahoma Statutes. To stay the execution of the order and judgment of forfeiture, the bondsman or insurer shall comply with the provisions set forth in Section 990.4 of Title 12 of the Oklahoma Statutes.

H. For municipal courts of record, the above procedures are criminal in nature and ancillary to the criminal procedures before the trial court and shall be subject to the bondsman's right of appeal. The bondsman or insurer may appeal an order and judgment of forfeiture by the municipal courts of record to the Court of Criminal Appeals.

I. Upon a motion to the court, any person executing a bail bond as principal or as surety shall be exonerated after three (3) years have elapsed from the posting of the bond, unless a judgment has been entered against the surety or the principal for the forfeiture of the bond, or unless the court grants an extension of the three-year time period for good cause shown, upon motion by the prosecuting attorney.

SECTION 27. AMENDATORY 59 O.S. 2011, Section 1332.1, is amended to read as follows:

Section 1332.1. For the purpose of surrendering a defendant after a breach of the undertaking, the following persons may return the defendant to custody:

1. A bondsman or surety;

2. ~~An employee of~~ A licensed bail enforcer having authority under a client contract with a bondsman or surety pursuant to the Bail Enforcement and Licensing Act; or

3. A peace officer acting within the peace officer's jurisdiction.

SECTION 28. AMENDATORY 59 O.S. 2011, Section 1750.2A, is amended to read as follows:

Section 1750.2A. Any person violating or failing to comply with the provisions of the Oklahoma Security Guard and Private Investigator Act or the Bail Enforcement and Licensing Act may be enjoined from such violations or required to comply with such provisions by any district court of competent jurisdiction. The Council on Law Enforcement Education and Training or the Attorney General may apply for an order enjoining such violation or enforcing compliance with ~~this act~~ law and rule. Upon the filing of a verified petition with the court, the court, if satisfied by the affidavit or otherwise that the person has violated ~~this act~~ any provisions of the Oklahoma Security Guard and Private Investigator Act or the Bail Enforcement and Licensing Act, may issue a temporary injunction enjoining such continued violation. In case of violation of any order or decree issued by court, the offender may be held in contempt of court. Proceedings under this section shall be in addition to all other remedies and penalties provided by law.

SECTION 29. AMENDATORY 59 O.S. 2011, Section 1750.5, as amended by Section 1 of Enrolled House Bill No. 1413 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 1750.5. A. Licenses authorized to be issued by the Council on Law Enforcement Education and Training (CLEET) shall be as follows:

1. Security Agency License;
2. Investigative Agency License;
3. Private Investigator License (unarmed);

4. Security Guard License (unarmed);
5. Armed Security Guard License;
6. Special Event License (unarmed); ~~and~~
7. Armed Private Investigator License;
8. Bail Enforcer License; and
9. Armed Bail Enforcer License.

B. Any qualified applicant meeting the requirements for more than one of the positions of private investigator, security guard, ~~or~~, armed security guard, bail enforcer, or armed bail enforcer may be issued a separate license for each position for which qualified, or in the discretion of the Council, a combination license provided the required license fees are paid.

C. 1. A private investigator may carry a firearm, if the private investigator also performs the functions of an armed security guard, under the authority of the armed security guard license.

2. If the private investigator performs no functions of an armed security guard, the Council may issue an armed private investigator license. If a person has been issued an armed private investigator license, the Council may issue an armed bail enforcer license if the applicant is otherwise eligible and qualified. The applicant for an armed private investigator license must complete Phase I, III and IV training and pass the psychological examination and state test; provided however, active certified peace officers and retired certified peace officers shall be exempt from the psychological examination as provided in Section 1750.3A of this title, and active certified peace officers of any state, county or municipal law enforcement agency in this state shall be exempt from the Phase I, III and IV training and state test for an armed private investigator. The Council will charge the same fee for the armed private investigators license as the cost of the armed security guard license; provided however, an active certified peace officer who is an applicant for ~~a~~ an armed private investigator or armed

security guard license shall be charged only twenty percent (20%) of the required fee.

3. Any person issued an armed private investigator license may carry a concealed or unconcealed firearm when on and off duty, provided the person is in possession of a valid driver license and a valid armed private investigator license.

4. Any person issued an armed bail enforcer license may carry a concealed approved pistol, or may open-carry an approved pistol with a visible bail enforcer badge affixed to the holster or belt immediately next to the firearm while wearing clearly marked apparel designating the person as a "Bail Enforcer" when actively engaged in the recovery of a defendant, subject to all rules for use and conduct of firearms promulgated by the Council. An armed bail enforcer shall be permitted to carry a concealed firearm when not actively engaged in the recovery of a defendant provided the bail enforcer badge authorized or issued by CLEET and a state-issued driver license or identification card are in the possession of the person while carrying the firearm.

D. Any identification card or badge issued to a person meeting the license requirements for an armed security guard ~~or~~, an armed private investigator or armed bail enforcer shall be distinct and shall explicitly state that the person is authorized to carry a firearm pursuant to the provisions of the Oklahoma Security Guard and Private Investigator Act or the Bail Enforcement and Licensing Act. Upon receipt of the license and identification card, the armed security guard ~~or~~, armed private investigator or armed bail enforcer is authorized to carry a firearm ~~in the performance of his or her duties~~ subject to the respective provisions of the Oklahoma Security Guard and Private Investigator Act or the Bail Enforcement and Licensing Act and the rules promulgated by the Council.

E. The Council may issue a conditional license to a person employed by a security or investigative agency as a trainee for a security guard, armed security guard, or private investigator position, when the person has submitted a properly completed application, made under oath, subject to the following conditions:

1. A conditional license shall authorize employees to perform the same functions that regular licensees perform, but subject to supervision by the employing agency as the Council may prescribe;

2. The holder of a conditional license shall complete the necessary training requirements within one hundred eighty (180) days from the effective date of the conditional license, after which the conditional license shall expire;

3. The holder of a conditional license as an armed security guard shall not carry a firearm in the performance of duties until after completing a course of firearms training as prescribed by the Council, and having been issued a regular license by the Council;

4. A conditional license may be renewed at the discretion of the Council, if necessary to allow an applicant to complete any training required for a regular license; ~~and~~

5. When the Council finds that a conditional license holder has completed the required training and is otherwise qualified for a license pursuant to the provisions of the Oklahoma Security Guard and Private Investigator Act, the Council shall issue a regular license; and

6. The Council shall be prohibited from issuing a conditional license to a bail enforcer under the Bail Enforcement and Licensing Act.

F. A Security Agency License may be issued to an individual, corporation, or other legal entity meeting the following qualifications:

1. If the license is to be issued in the name of a legal entity other than a natural person, the applicant must furnish proof that the entity is legally recognized, such as the issuance of a corporate charter; and

2. The executive officer, manager, or other person in charge of supervising security guards in the performance of their duties shall be a licensed security guard.

G. An Investigative Agency License may be issued to an individual, corporation, or other legal entity meeting the following qualifications:

1. If the license is to be issued in the name of a legal entity other than a natural person, the applicant must furnish proof that the entity is legally recognized, such as the issuance of a corporate charter;

2. Any person, otherwise qualified, may own a private investigation agency; and

3. A self-employed private investigator who employs no other investigators shall also be licensed as an investigative agency, but shall only be required to be insured or bonded as a self-employed private investigator.

H. A Security Guard License, Armed Security Guard License, Private Investigator License, Armed Private Investigator License, or combination thereof may be issued to an applicant meeting the following qualifications. The applicant shall:

1. Be a citizen of the United States or an alien legally residing in the United States;

2. Be at least eighteen (18) years of age, except that an applicant for an Armed Security Guard License shall be at least twenty-one (21) years of age;

3. Have successfully completed training requirements for the license applied for, as prescribed by the Council;

4. Be of good moral character;

5. Not have a record of a felony conviction;

6. Not have a record of conviction for larceny, theft, false pretense, fraud, embezzlement, false personation of an officer, any offense involving moral turpitude, any offense involving a minor as a victim, any nonconsensual sex offense, any offense involving the possession, use, distribution, or sale of a controlled dangerous

substance, any offense involving a firearm, or any other offense as prescribed by the Council, as provided herein.

- a. If any conviction which disqualifies an applicant occurred more than five (5) years prior to the application date and the Council is convinced the offense constituted an isolated incident and the applicant has been rehabilitated, the Council may, in its discretion, waive the conviction disqualification as provided for in this paragraph and issue an unarmed security guard license or a private investigator license, but shall not issue an armed guard license, to the applicant if ~~the applicant is otherwise qualified, unless~~ the felony involved the use of a firearm or was violent in nature.
- b. If an Oklahoma State Bureau of Investigation records check and a local records check reveal that there are no felony convictions, criminal convictions involving moral turpitude, or any other disqualifying convictions as specified in the Oklahoma Security Guard and Private Investigator Act or prescribed by the Council, then the Council may conditionally issue an armed security guard license pending completion of the criminal history and background check.
- c. Under oath, the applicant shall certify that he or she has no disqualifying convictions as specified in the Oklahoma Security Guard and Private Investigator Act or by the Council.
- d. The applicant shall further meet all other qualifications.
- e. If upon completion of the required background investigation it is discovered that a disqualifying conviction exists, the Council shall immediately revoke the armed guard license of the applicant;

7. Make a statement that the applicant is not currently undergoing treatment for a mental illness, condition, or disorder, make a statement whether the applicant has ever been adjudicated

incompetent or committed to a mental institution, and make a statement regarding any history of illegal drug use or alcohol abuse. Upon presentation by the Council on Law Enforcement Education and Training of the name, gender, date of birth, and address of the applicant to the Department of Mental Health and Substance Abuse Services, the Department of Mental Health and Substance Abuse Services shall notify the Council within ten (10) days whether the computerized records of the Department indicate the applicant has ever been involuntarily committed to an Oklahoma state mental institution. For purposes of this subsection, "currently undergoing treatment for a mental illness, condition, or disorder" means the person has been diagnosed by a licensed physician or psychologist, as being afflicted with a substantial disorder of thought, mood, perception, psychological orientation, or memory that significantly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life and such condition continues to exist; and

8. Make a statement regarding misdemeanor domestic violence charges.

I. A special event license may be issued to an employee of a security agency who is hired on a temporary basis as an unarmed security guard for a particular event. An application for a special event license shall be made by the agency employing the applicant. The agency shall certify to the Council that the applicant meets the qualifications for security guards, pursuant to subsection H of this section.

J. 1. All persons and agencies shall obtain and maintain liability coverage in accordance with the following minimum standards:

- a. general liability insurance coverage for bodily injury, personal injury, and property damage, with endorsements for personal injury including false arrest, libel, slander, and invasion of privacy, or
- b. a surety bond that allows persons to recover for actionable injuries, loss, or damage as a result of the willful, or wrongful acts or omissions of the principal and protects this state, its agents,

officers and employees from judgments against the principal or insured licensee, and is further conditioned upon the faithful and honest conduct of the principal's business.

2. Liability coverages and bonds outlined in this section shall be in the minimum amounts of One Hundred Thousand Dollars (\$100,000.00) for agencies, Ten Thousand Dollars (\$10,000.00) for armed security guards and armed private investigators, or combination armed license; and Five Thousand Dollars (\$5,000.00) for unarmed security guards and self-employed unarmed private investigators who employ no other investigators.

3. Security agencies and investigative agencies shall ensure that all employees of these agencies have met the minimum liability coverages as prescribed in this section.

4. Insurance policies and bonds issued pursuant to this section shall not be modified or canceled unless ten (10) days' prior written notice is given to the Council. All persons and agencies insured or bonded pursuant to this section shall be insured or bonded by an insurance carrier or a surety company licensed in the state in which the insurance or bond was purchased, or in this state.

5. In lieu of the requirements of this subsection, the Council may accept a written statement from a corporation which is registered with the Oklahoma Secretary of State attesting that the corporation self-insures the general operation of business for the types of liability set out in paragraphs 1 and 2 of this subsection.

K. Upon written notice, any license may be placed on inactive status.

L. Similar or duplicate agency names will not be issued. Each agency name must be distinguishably different.

SECTION 30. AMENDATORY 59 O.S. 2011, Section 1750.14, is amended to read as follows:

Section 1750.14. A. Except as provided in subsection C of this section, any person who is not a resident of this state who

~~apprehends~~ intends to apprehend in this state, or attempts to apprehend, a defendant, who has failed to appear before any court of this state or another state or any federal court as required by law and has forfeited bail or for purposes of apprehending a defendant prior to breach of an undertaking or bail contract, shall be required to have a client contract with a bail enforcer licensed in this state or to be licensed bail enforcer in this state prior to such apprehension or to be accompanied at the time of the apprehension by a peace officer ~~or a person licensed in this state as a bail bondsman.~~

B. Any person who violates the provisions of this section shall be guilty of a ~~misdemeanor~~ violation of the Bail Enforcement and Licensing Act and shall be punished as provided in Section 3 of this act.

C. The provisions of this section shall not apply to law enforcement officers of any jurisdiction or to licensed bondsmen in this state appointed by an insurer with regard to a defendant on a bond posted by that insurer.

SECTION 31. This act shall become effective November 1, 2013.

Passed the Senate the 22nd day of May, 2013.

Presiding Officer of the Senate

Passed the House of Representatives the 24th day of May, 2013.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____