

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4148

(By Delegates Brown, DeLong, Mahan, R. Thompson,
Armstead, Calvert and Faircloth)

Passed March 13, 2004

In Effect Ninety Days from Passage

FILED

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FOR

H. B. 4148

(BY DELEGATES BROWN, DELONG, MAHAN, R. THOMPSON,
ARMSTEAD, CALVERT AND FAIRCLOTH)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §51-10-8 of the code of West Virginia, 1931, as amended; and to amend and reenact §62-1C-14 of said code, all relating to bail bondspersons; requiring the supreme court of appeals shall to adopt rules specifying the qualifications of persons and corporations applying for authority to engage in the bonding business in West Virginia; allowing bail bondsperson to deliver offenders to county and regional jails without bailpiece; setting requirements; setting forth requirements related to medical treatment of defendant prior to authorities taking custody pursuant to a bailpiece; providing for certain immunities from liability; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That §51-10-8 of the code of West Virginia, 1931, as amended, be amended and reenacted; and that §62-1C-14 of said code be amended and reenacted, all to read as follows:

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 10. PROFESSIONAL BONDSMEN IN CRIMINAL CASES.

§51-10-8. Qualifications of bondsmen; rules to be prescribed by supreme court of appeals; lists of agents to be furnished; renewal of authority to act; false swearing.

1 (a) The supreme court of appeals shall under reasonable
2 rules, specify the qualifications of persons and corporations
3 applying for authority to engage in the bonding business in
4 criminal cases in the state of West Virginia, and the terms and
5 conditions upon which the business may be carried on. After the
6 first day of September, two thousand four, no person or
7 corporation may, either as principal, or as agent, clerk, or
8 representative of another, engage in the bonding business in any
9 court regularly exercising criminal jurisdiction until qualified
10 pursuant to the rules. The supreme court of appeals, in making
11 the rules, and in granting authority to persons to engage in the
12 bonding business, shall take into consideration both the
13 financial responsibility and the moral qualities of the person so
14 applying, and no person may be permitted to engage, either as
15 principal or agent, in the business of becoming surety upon
16 bonds for compensation in criminal cases, who has ever been
17 convicted of any offense involving moral turpitude, or who is
18 not known to be a person of good moral character. The court
19 shall require every person qualifying to engage in the bonding
20 business as principal to file with the court a list showing the
21 name, age, and residence of each person employed by the
22 bondsman as agent, clerk, or representative in the bonding
23 business, and require an affidavit from each of the persons
24 stating that the person will abide by the terms and provisions of
25 this article. The court shall require the authority of each of the
26 persons to be renewed from time to time at periods the court
27 may by rule provide. Before the authority may be renewed the
28 court shall require from each of the persons an affidavit that

29 since his or her previous qualifications to engage in the bonding
30 business he or she has abided by the provisions of this article,
31 and any person swearing falsely in any of the affidavits is guilty
32 of false swearing.

33 (b) Persons authorized to engage in the bonding business in
34 criminal cases in the state of West Virginia on the effective date
35 of the amendments made to this section during the regular
36 session of the Legislature in two thousand four may continue to
37 engage in the business until the first day of September, two
38 thousand four.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 1C. BAIL.

§62-1C-14. Bailpiece; issuance to surety; taking accused into custody.

1 (a) A bailpiece is a certificate stating that the bail became
2 such for the accused in a particular case and the amount thereof.
3 Upon demand therefor, the court, magistrate or clerk shall issue
4 to the bail bondsperson a bailpiece. Any officer having author-
5 ity to execute a warrant of arrest shall assist the bail
6 bondsperson holding such bailpiece to take the accused into
7 custody and produce him before the court or magistrate. The
8 bail bondsperson may take the accused into custody and
9 surrender him or her to the court or magistrate without such
10 bailpiece.

11 (b) If bailpiece is inaccessible due to unavailability of the
12 courts' circuit clerk or magistrate, the bail bondsperson, or his
13 or her designee, can take an offender to a regional or county jail
14 without bailpiece, and the jail must accept the offender;
15 provided:

16 (1) The bail bondsperson, or his or her designee, delivering
17 an offender to a jail without a bailpiece issued by the courts'
18 circuit clerk or magistrate appears on the registered list main-
19 tained at the jails and approved by the court of original jurisdic-
20 tion;

21 (2) The bail bondsperson signs an agreement provided by
22 the jail indicating that the offender has been booked in lieu of
23 bailpiece. Such agreement shall contain a clause indicating the
24 incarceration of such offender is lawful and that the jail
25 accepting the offender shall be held harmless from any claims
26 of illegal incarceration or other relative charges; thereby, such
27 bail bondsperson assumes the risk and liability of such incarcer-
28 ation; and

29 (3) Bailpiece must be applied for by the bail bondsperson
30 or his or her designee from the courts' circuit clerk or magis-
31 trate and hand-delivered by the bail bondsperson or his or her
32 designee to the jail housing such offender on the next judicial
33 day following the initial intake.

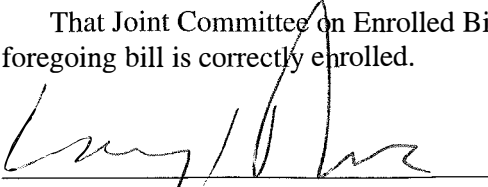
34 (c) Any bail bondsperson who willfully fails to attempt to
35 obtain the appropriate bailpiece within the allotted time period
36 provided in subsection (b) of this section is guilty of a misde-
37 meanor and, upon conviction thereof, shall be prohibited from
38 continuing to conduct business in this state and shall be fined
39 not more than one thousand dollars and confined in the regional
40 or county jail not more than one year.

41 (d) No officer, jailer or other person having authority to
42 accept offenders in a county or regional jail is required to
43 accept such offenders being housed in lieu of bailpiece if such
44 offender appears to be in need of medical attention of a degree
45 necessitating treatment by a physician. If an offender is refused
46 pursuant to the provisions of this section, he or she may not be
47 accepted for detention until the bail bondsperson, or his or her

48 designee, provides the jailer or persons accepting such offender
49 with a written clearance from a licensed physician reflecting
50 that the offender has been examined and, if necessary, treated,
51 and which states that it is the physician's medical opinion that
52 the offender can be safely confined in the county or regional
53 jail.

54 (e) The regional jail authority, the county sheriff, county
55 commission, or any of their agents or employees, shall be
56 immune from liability for any claims of illegal incarceration or
57 other relative charges for any offender accepted into a facility
58 under this section.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

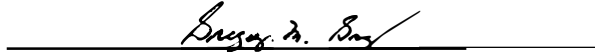

Chairman Senate Committee


Chairman House Committee

Originating in the House.

In effect ninety days from passage.

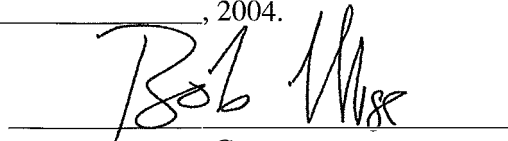

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 5th
day of April, 2004.


Governor

PRESENTED TO THE
GOVERNOR

DATE 3/31/04

TIME 8:00:00am