

CLARIFICATION OF VARIOUS BAIL BOND LAWS

This Bulletin is directed to all bail agents and recovery agents licensed under IC 27-10-3. The purpose of this Bulletin is to clarify various provisions of Indiana bail bond law and how the Department interprets those provisions.

IC 27-10-3-20 sets forth a mandatory procedure for the Commissioner to follow when a bail agent maintains a child support arrearage. Additionally, IC 27-10-3-3(a) requires a bail agent applicant to affirmatively show that he or she is of good moral character. The Department views this as an ongoing requirement and not one that ceases at licensure. A bail agent who is repeatedly named on the Indiana Department of Child Services child support arrearage list for failing to comply with a child support order will be regarded as having failed to show good moral character and thus to no longer meet the requirements to be a licensed bail agent in this state. A bail agent who continually fails to pay child support may be subject to disciplinary action, up to and including revocation of a bail license, even if other requirements of IC 27-10-3-20 have technically been met.

The Department occasionally learns of bail agents charging certain fees for services ancillary to the placement of a bail bond. IC 27-10-4-2(a)(5) states that a bail agent may not accept any property from a principal except the premium, bail bond filing fee, and transfer fee (except collateral or other indemnity from the principal). The collection of any additional fees including, but not limited to, fees for:

- Phone calls,
- Transportation,
- Photocopying,
- Notary services, and
- The use of a credit or debit card

are prohibited. An agent who charges these fees in connection with placing a bond is subject to disciplinary action which may include a return of such fees.

IC 27-10-4-2(a)(6) and 760 IAC 1-6.2-2 prohibit bail and recovery agents from soliciting business in or about jails, sheriff's offices, police stations, courtrooms, or courthouses. This prohibited solicitation includes, but is not limited to: the use of signs displaying bail bond business advertising on vehicles parked or driven on such property, the wearing of articles of clothing that reference the bail business, in any way displaying stickers that contain advertising, or handing out bail bond business cards.

Pursuant to IC 27-10-4-3, certain persons, including "those having anything to do with the control of federal, state, county, or municipal prisoners" may not be bail agents or receive any benefits from the execution of any bail bond. The Department considers recovery agents to receive benefits from the execution of a bail bond and therefore be subject to this prohibition. The Department interprets the term "prisoners" to include persons subject to home detention under IC 35-38-2.5. Thus, persons administering or monitoring individuals on home detention

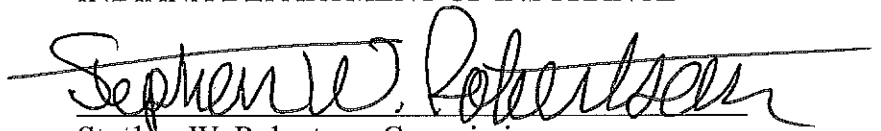
may not be bail agents or recovery agents or in any other way receive any benefit from the execution of a bail bond.

The Department's auditor has in the past traveled to a scheduled audit and been unable to complete the audit because the bail agent and/or the agent's records were unavailable. Under 760 IAC 1-6.2-8, bail agents are required to keep complete records of all bail bond business and make those records open to inspection by the Department. The Department notifies bail agents of audits by mail sent to the agent's mailing address on record with the Department. The Bail Bond Division auditor often travels long distances to conduct audits. When the audit cannot proceed as scheduled, it is a waste of time and other resources. As of the date of this Bulletin, a bail agent must notify the Division directly **in writing** at least one business day prior to the scheduled audit if the agent cannot be available for the audit. Written notice by fax or e-mail is acceptable. Absent proper notification as described above or a bona fide emergency, an agent unavailable for scheduled audit may be subject to disciplinary action, including but not limited to fines, reimbursement to the Department of travel costs, and/or a license action.

Finally, the Department has been informed of instances where licensed bail agents writing for companies exempt from regulation have claimed to be exempt from certain provisions of Indiana bail law. All bail and recovery agents licensed by the Department are subject to all statutes and regulations relating to the bail bond industry, regardless of whether those agents are employed by or represent an exempt or non-regulated entity. All agents who violate any bail law may be subject to disciplinary action including loss of the agent's bail license.

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INDIANA DEPARTMENT OF INSURANCE


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