

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1213

2001 HOUSE JUDICIARY

HB 1213

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1213

House Judiciary Committee

Conference Committee

Hearing Date 01-24-01

Tape Number	Side A	Side B	Meter #
Tape I	x		5478 to 6249
		x	01 to 6240
TAPE II	x		01 to 218
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chr DeKrey opened the hearing on HB 1213. Relating to fees for bail bondsmen and bail bond forfeiture.

Rep Clark: District 44, Fargo, North Dakota. When I first started working on this bill, I didn't know much about bail bonding. Bail bonding in the code is rather vague as to what the judges may or may not do. He gave an example that he thought might be an abuse of the system. The changes are to the fees and forfeiture of indemnitors collateral, section 3 page 2 lines 4 thru 9 would clarify the section.

TAPE I SIDE B

Rep Clark continues to give examples how a bonds works and the notification of the bond.

Continues to explain the amendments to the bill.

Chr DeKrey: For those of us involved in business, this is surely the cost of doing business, and isn't that the risk of doing business?

Rep Clark: Yes, it is, but is this right when the defendant was in custody?

Rep Delmore: Are you duplication some of the fees, why would you use both in that part rather than one or the other?

Rep Clark: I am not sure, this bill may need an amendment.

Rep Delmore: I don't think you need both.

Rep Mahoney: I have never heard of such a thing as the bond being forfeited when a defendant is being held in another jurisdiction and does not make the court appearance. I don't know of any court in the state that would do that.

Rep Clark: I agree, I thought it was ridiculous.

Rep Mahoney: And that bond was never exonerated?

Rep Clark: Not to my knowledge.

Rep Mahoney: You are putting the burden on the court. with the five days.

Rep Clark: I don't think that any bondsman would do that. It is not in his best interest to let that person get away.

Chr DeKrey: Thank you for appearing in front of this committee.

Judge Graf: South Central Judicial District, testifying in opposition of this bill. Many times that we are aware of a person being held, we make arrangement to have that person brought to our court. We just send our sheriff to get them. Forfeiture of bond does not go into our court, it goes into the general fund. I am here to speak to section one and section two. I am here to speak to the obligation of someone who places a cash bond and to put them on equal footing, it would exempt bail bondsmen from certain things. He went through the amendments, some he agreed with and most he did not. He said that this would reduce the number of bonds that would be allowed in his court. He was opposed to this bill.

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House Judiciary Committee

Bill/Resolution Number HB 1213

Hearing Date 01-24-01

Chr DeKrey: Thank you for appearing before this committee. We will now take testimony for those in favor of this bill.

Jason Armstrong: Bondsman for Young Bonding (see testimony attached).

Rep Delmore: How many cases do you have going at one time?

Jason Armstrong: I have 500 client for the year 2000. 50 to 150 bonds out at one time.

Rep Delmore: Isn't there a risk and cost of doing your kind of business. Isn't this covered by the fees?

Jason Armstrong: Our business is unique, we do face risks. Risks don't end with the money and financial lose, we also face physical risks.

Rep Mahoney: The .6% you quoted, I am wondering what is that?

Jason Armstrong: Less then .6% are those that I did not get back.

Rep Mahoney: That would be the per cent that you pay out.

Sharon Honrud: Bailbond agent spoke in support of this bill.

Chr DeKrey: Thank you for appearing in front of this committee. Anyone else who wishes to appear in opposition to this bill?

TAPE II SIDE A.

John Olson: I have no opinion but I ask that you remove sections three and four of the bill.

Sections three and four are the same as expressed as Judge Graf.

Bob Martin: Defense attorney out of Bismarek, I am also indigent defense councils for the South Central Judicial District. He spoke in opposition to HB 1213.

Chr DeKrey: Are there any questions for Mr Martin If not thank you for appearing before this committee. We will close the hearing on HB 1213 and be in recess until 10:45 am..

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1213a

House Judiciary Committee

Conference Committee

Hearing Date 02-06-01

Tape Number	Side A	Side B	Meter #
TAPE I		x	01 to 385
Committee Clerk Signature <i>Jean Bers</i>			

Minutes: Chairman DeKrey called the committee to order, we will take up HB 1213.

DISCUSSION

Chairman DeKrey: what are the wishes of the committee.

Rep Grande moved a DO NOT PASS, seconded by Rep Mahoney.

The clerk will call the roll on a DO NOT PASS motion. The motion passes 13 YES, 1 NO, 1 ABSENT. Carrier Rep Mahoney.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1213

Page 1, line 11, replace "fees" with "costs"

Page 2, line 12, remove "a"

Page 2, line 13, remove "finding of guilty, a plea of guilty," and after the third "guilty" insert "a pronouncement of sentence"

Page 2, remove line 14

Page 2, line 15, remove "notification and written approval of the bondsman,"

Renumber accordingly

Date: 02-06-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB-1213

House JUDICIARY Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep Grande Seconded By Rep Mahoney

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre		✓			
Rep April Fairfield	✓				
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos					
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 13 No 1

Absent 1

Floor Assignment Rep Mahoney

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 6, 2001 4:56 p.m.

Module No: HR-21-2541
Carrier: Mahoney
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1213: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO NOT PASS
(13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1213 was placed on the
Eleventh order on the calendar.

2001 TESTIMONY

HB 1213

Young Bonding

Box 1861
Fargo, ND 58107
Phn (701) 232-2606
Fax (701) 237-3539

December 11, 2000

House Judiciary Committee
57th Legislative Assembly
Bismarck, ND

Subject: House Bill No. 1213

Dear Honorable Representatives:

With this document I hope to provide an understanding of the Professional Bail Industry and its benefit and contributions to the Criminal Justice System.

The professional bail bondsman is one of the least understood entities in the Criminal Justice System, even for those with whom we come in contact on a regular basis. The bail industry provides the opportunity for an accused defendant to post their bail without placing the entire amount in cash with the court. This may at first seem to benefit only the accused; however, it also benefits their families, the courts, the community, state, and law enforcement. The bondsman's overriding goal is the same as the rest of the Criminal Justice System, that of maintaining public order and the efficient administration of justice. For the bondsman this is achieved by ensuring that the defendant appears for their scheduled court dates.

If a defendant is released either on their own recognizance or through the posting of the entire amount of the bail in cash, then there is no real further control of the defendant before their sentencing. The bondsman provides supervision of the defendant before trial and if the defendant "fails to appear" endeavors to locate and return them to the proper authorities. All of this is done at no cost to the taxpayer. The only persons who bear any costs are the defendants themselves and those who have freely chosen, of their own volition, to assist the defendant in securing bail.

By the nature of the undertaking of a private bail contract, freely entered into by the defendant and indemnitors, the bondsman may exert a high level of control over the defendant's behavior and movements. This control is kept consistent with the severity of the alleged crime, possible threat to the community, and risk of flight. A competent bondsman can save State, County, and Municipal government many thousands of taxpayer dollars that would otherwise be spent on jail facilities, staff, food, transport, and healthcare of a presumed innocent individual. In the event of "ball jumping", the bondsman may return the defendant and/or assist law enforcement in their apprehension at no cost or greatly reduced cost to the government. Further, with pre-trial custody it is that much less likely that a defendant will be able to finance their own defense and a great burden is placed on the family, particularly when the defendant is the primary income provider or both incomes are essential. The posting of bond allows the defendant to participate more fully in his or her own defense and arrive at a just disposition to their case. These conditions are that much more important in hindsight if the defendant is found "not guilty" or does not receive jail time as part of their sentence. It serves no one to have a defendant lose a job or a family, a situation which makes it that much more difficult for the defendant to conform to societies standards.

SECTION 1. AMENDMENT.

The instatement of a maximum commission or fee was presumably to protect the consumer from usury at the hands of the bondsman. However, this limitation frequently has the effect of denying otherwise deserving clientele of services due to the inability of the bondsman to profit on that bond.

The bondsman does not retain the entire premium of the bond; a portion is sent to the underwriter and to a reserve fund for forfeitures. The bondsman does, however, maintain one hundred percent liability for the bond. Many of the bonds in North Dakota are for smaller offenses and hence smaller bonds. These bonds require nearly the same amount of work as larger bonds, yet the profit margin is minimal and, at times, after phone calls, travel, and fixed expenses, almost non-existent. It is easy to say, "Well, those are businesses expenses and written off." However, a write off is a poor substitute for profit and there is no motivation to provide services merely at an expense. Also, the bondsman must accept collect calls from the jail at a rate of nearly two dollars to connect, whether local or long distance, and nearly one dollar each additional minute. This is an expense that the bondsman has no control over, as it is a result of government contracts. Further, like so many other businesses, there is a great deal of work that goes on "behind the scenes". It is not a simple matter of showing up at the jail, dropping off a bond, and making a hundred dollars. There is the handling of collateral, monitoring clients, and transporting clients home, to cash machines, etc.

Revision to a maximum of fifteen percent would not necessitate the charging of that level of premium, it would allow the bondsman flexibility to manage expenses against income in each individual case. Free enterprise and competition would keep premiums around ten percent, especially in larger bonds where the premium is larger and therefore provides for more reasonable profit after expenses. If one agency were to attempt to charge fifteen percent for a \$10,000 bond, the client would no doubt call someone else who would post it for a much lower premium. By the very nature of this business each case is unique and individual assessment of risk is left to the bondsman's judgment, based on experience and instinct. Even when good collateral can be obtained, much time and effort may be required to cover the cost of a forfeiture or apprehension. Most businesses are allowed to set their own prices based on what the market will bear. Call a plumber or tow truck at three a.m. to travel fifty miles and the cost will be higher than at three p.m. for five miles.

SECTION 2. NEW SECTION.

This section formerly adds to the century code what is already addressed in any bail contract I am aware of.

SECTION 3. AMENDMENT.

A bondsman does not desire for a defendant to escape justice, not only for the obvious monetary reasons, but also as a matter of principle. When a defendant fails to appear and the bondsman can return them to custody it bolsters their appearance in the eyes of the court and law enforcement, and serves to discourage other defendants from attempting the same thing. Requiring the court to notify the bondman of a failure to appear ensures that an immediate search for the fugitive may begin when they are most likely to be caught.

As it currently stands the bondsman may be afforded little or no time to locate the fugitive, and with immediate or nearly immediate forfeiture of the bond, there is little incentive to invest considerable time and money in seeking the fugitives apprehension, as a return of even part of the forfeiture may not be relied upon in many courts. As already stated the ability of the bondsman to apprehend the fugitive can save government considerable sums of money. Ninety days is a reasonable amount of time when it is considered that the fugitive may be in another state or otherwise making a strong attempt to conceal them self. It takes time to gather reliable information, and in the case of interstate flight, there is considerable planning that must occur; such as dealing with varying state laws and agencies, and of course the travel time required. The ninety days would allow the bondsman to overcome this barrier.

By mandating a continuance of the bond during a defendant's confinement in another facility and then allowing the bondsman to transport them back to local authorities again can save the local authorities considerable monies and ensure the administration of justice.

