

Calendar No. 582

105<sup>TH</sup> CONGRESS  
2D SESSION

**S. 1637**

---

---

**A BILL**

To expedite State review of criminal records of applicants for bail enforcement officer employment, and for other purposes.

---

---

SEPTEMBER 17, 1998

Reported with an amendment in the nature of a substitute

## Calendar No. 582

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 1637**

To expedite State review of criminal records of applicants for bail enforcement officer employment, and for other purposes.

---

 IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 1998

Mr. TORRICELLI (for himself and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

SEPTEMBER 17, 1998

Reported by Mr. HATCH, with an amendment in the nature of a substitute  
[Strike out all after the enacting clause and insert the part printed in italic]

---

**A BILL**

To expedite State review of criminal records of applicants for bail enforcement officer employment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bounty Hunter Ac-  
5 countability and Quality Assistance Act of 1998”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) bail enforcement officers, also known as  
4 bounty hunters or recovery agents, provide law en-  
5 forcement officers with valuable assistance in recov-  
6 ering fugitives from justice;

7 (2) regardless of the differences in their duties,  
8 skills, and responsibilities, the public has had dif-  
9 ficulty in discerning the difference between law en-  
10 forcement officers and bail enforcement officers;

11 (3) the American public demands the employ-  
12 ment of qualified, well-trained bail enforcement offi-  
13 cers as an adjunct, but not a replacement for, law  
14 enforcement officers; and

15 (4) in the course of their duties, bail enforce-  
16 ment officers often move in and affect interstate  
17 commerce.

18 **SEC. 3. DEFINITIONS.**

19 In this Act—

20 (1) the term “bail enforcement employer”  
21 means any person that—

22 (A) employs 1 or more bail enforcement of-  
23 ficers; or

24 (B) provides, as an independent contrac-  
25 tor, for consideration, the services of 1 or more

1           bail enforcement officers (which may include  
2           the services of that person);

3           ~~(2)~~ the term “bail enforcement officer”—

4                   (A) means any person employed to obtain  
5           the recovery of any fugitive from justice who  
6           has been released on bail; and

7                   (B) does not include any—

8                           (i) law enforcement officer;

9                           (ii) attorney, accountant, or other pro-  
10          fessional licensed under applicable State  
11          law;

12                          (iii) employee whose duties are pri-  
13          marily internal audit or credit functions; or

14                          (iv) member of the Armed Forces on  
15          active duty; and

16           ~~(3)~~ the term “law enforcement officer” means  
17          a public servant authorized under applicable State  
18          law to conduct or engage in the prevention, inves-  
19          tigation, prosecution, or adjudication of criminal of-  
20          fenses, including any public servant engaged in cor-  
21          rections, parole, or probation functions.

22   **SEC. 4. BACKGROUND CHECKS.**

23           (a) IN GENERAL.—

24                   (1) SUBMISSION.—An association of bail en-  
25          forcement employers, which shall be designated for

1 the purposes of this section by the Attorney General;  
2 may submit to the Attorney General fingerprints or  
3 other methods of positive identification approved by  
4 the Attorney General; on behalf of any applicant for  
5 a State license or certificate of registration as a bail  
6 enforcement officer or a bail enforcement employer.

7 (2) EXCHANGE.—In response to a submission  
8 under paragraph (1), the Attorney General may, to  
9 the extent provided by State law conforming to the  
10 requirements of the second paragraph under the  
11 heading “Federal Bureau of Investigation” and the  
12 subheading “Salaries and Expenses” in title II of  
13 Public Law 92–544 (86 Stat. 1115), exchange, for  
14 licensing and employment purposes, identification  
15 and criminal history records with the State govern-  
16 mental agencies to which the applicant has applied.

17 (b) REGULATIONS.—The Attorney General may pro-  
18 mulgate such regulations as may be necessary to carry out  
19 this section, including measures relating to the security,  
20 confidentiality, accuracy, use, and dissemination of infor-  
21 mation submitted or exchanged under subsection (a) and  
22 to audits and recordkeeping requirements relating to that  
23 information.

24 (c) REPORT.—Not later than 2 years after the date  
25 of enactment of this Act, the Attorney General shall sub-

1 mit to the Committees on the Judiciary of the Senate and  
2 the House of Representatives a report on the number of  
3 submissions made by the association of bail enforcement  
4 employers under subsection (a)(1), and the disposition of  
5 each application to which those submissions related.

6 (d) STATE PARTICIPATION.—It is the sense of Con-  
7 gress that each State should participate, to the maximum  
8 extent practicable, in any exchange with the Attorney Gen-  
9 eral under subsection (a)(2).

10 **SEC. 5. MODEL GUIDELINES.**

11 (a) IN GENERAL.—Not later than 180 days after the  
12 date of enactment of this Act, the Attorney General shall  
13 publish in the Federal Register model guidelines for the  
14 State control and regulation of persons employed or apply-  
15 ing for employment as bail enforcement officers.

16 (b) RECOMMENDATIONS.—The guidelines published  
17 under subsection (a) shall include recommendations of the  
18 Attorney General regarding whether a person seeking em-  
19 ployment as a bail enforcement officer should be—

20 (1) allowed to obtain such employment if that  
21 person has been convicted of a felony offense under  
22 Federal law, or of any offense under State law that  
23 would be a felony if charged under Federal law;

24 (2) required to obtain adequate liability insur-  
25 ance for actions taken in the course of performing

1 duties pursuant to employment as a bail enforce-  
 2 ment officer; or

3 ~~(3)~~ prohibited, if acting in the capacity of that  
 4 person as a bail enforcement officer, from entering  
 5 any private dwelling, unless that person first knocks  
 6 on the front door and announces the presence of 1  
 7 or more bail enforcement officers.

8 ~~(e)~~ BYRNE GRANT PREFERENCE FOR CERTAIN  
 9 STATES.—

10 (1) IN GENERAL.—Section 505 of title I of the  
 11 Omnibus Crime Control and Safe Streets Act of  
 12 1968 (42 U.S.C. 3755) is amended by adding at the  
 13 end the following:

14 “~~(e)~~ PREFERENCE FOR CERTAIN STATES.—Notwith-  
 15 standing any other provision of this part, in making grants  
 16 to States under this subpart, the Director shall give prior-  
 17 ity to States that have adopted the model guidelines pub-  
 18 lished under section 5(a) of the Bounty Hunter Account-  
 19 ability and Quality Assistance Act of 1998.”.

20 (2) EFFECTIVE DATE.—The amendment made  
 21 by paragraph (1) shall take effect 2 years after the  
 22 date of enactment of this Act.

1 **SEC. 6. JOINT AND SEVERAL LIABILITY FOR ACTIVITIES OF**  
2 **BAIL ENFORCEMENT OFFICERS.**

3 Notwithstanding any other provision of law, a bail en-  
4 forcement officer, whether acting as an independent con-  
5 tractor or as an employee of a bail enforcement employer  
6 on a bail bond, shall be considered to be the agent of that  
7 bail enforcement employer for the purposes of that liabil-  
8 ity.

9 **SECTION 1. SHORT TITLE.**

10 *This Act may be cited as the “Bounty Hunter Account-*  
11 *ability and Quality Assistance Act of 1998”.*

12 **SEC. 2. FINDINGS.**

13 *Congress finds that—*

14 *(1) bounty hunters, also known as bail enforce-*  
15 *ment officers or recovery agents, provide law enforce-*  
16 *ment officers and the courts with valuable assistance*  
17 *in recovering fugitives from justice;*

18 *(2) regardless of the differences in their duties,*  
19 *skills, and responsibilities, the public has had dif-*  
20 *ficulty in discerning the difference between law en-*  
21 *forcement officers and bounty hunters;*

22 *(3) the availability of bail as an alternative to*  
23 *the pretrial detention or unsecured release of criminal*  
24 *defendants is important to the effective functioning of*  
25 *the criminal justice system;*

1           (4) *the safe and timely return to custody of fugi-*  
 2           *tives who violate bail contracts is an important mat-*  
 3           *ter of public safety, as is the return of any other fugi-*  
 4           *tive from justice;*

5           (5) *bail bond agents are widely regulated by the*  
 6           *States, whereas bounty hunters are largely unregu-*  
 7           *lated;*

8           (6) *the public safety requires the employment of*  
 9           *qualified, well-trained bounty hunters; and*

10          (7) *in the course of their duties, bounty hunters*  
 11          *often move in and affect interstate commerce.*

12 **SEC. 3. DEFINITIONS.**

13 *In this Act—*

14           (1) *the term “bail bond agent” means any retail*  
 15           *seller of a bond to secure the release of a criminal de-*  
 16           *fendant pending judicial proceedings, unless such per-*  
 17           *son also is self-employed to obtain the recovery of any*  
 18           *fugitive from justice who has been released on bail;*

19           (2) *the term “bounty hunter”—*

20           (A) *means any person whose services are*  
 21           *engaged, either as an independent contractor or*  
 22           *as an employee of a bounty hunter employer, to*  
 23           *obtain the recovery of any fugitive from justice*  
 24           *who has been released on bail; and*

25           (B) *does not include any—*

1           (i) law enforcement officer acting  
2           under color of law;

3           (ii) attorney, accountant, or other pro-  
4           fessional licensed under applicable State  
5           law;

6           (iii) employee whose duties are pri-  
7           marily internal audit or credit functions;

8           (iv) person while engaged in the per-  
9           formance of official duties as a member of  
10          the Armed Forces on active duty (as defined  
11          in section 101(d)(1) of title 10, United  
12          States Code); or

13          (v) bail bond agent;

14          (3) the term “bounty hunter employer”—

15           (A) means any person that—

16           (i) employs 1 or more bounty hunters;

17           or

18           (ii) provides, as an independent con-  
19           tractor, for consideration, the services of 1  
20           or more bounty hunters (which may include  
21           the services of that person); and

22           (B) does not include any bail bond agent;

23          and

24          (4) the term “law enforcement officer” means a  
25          public officer or employee authorized under applicable

1       *Federal or State law to conduct or engage in the pre-*  
2       *vention, investigation, prosecution, or adjudication of*  
3       *criminal offenses, including any public officer or em-*  
4       *ployee engaged in corrections, parole, or probation*  
5       *functions, or the recovery of any fugitive from justice.*

6       **SEC. 4. MODEL GUIDELINES.**

7       *(a) IN GENERAL.—Not later than 180 days after the*  
8       *date of enactment of this Act, the Attorney General shall*  
9       *develop model guidelines for the State control and regula-*  
10       *tion of persons employed or applying for employment as*  
11       *bounty hunters. In developing such guidelines, the Attorney*  
12       *General shall consult with organizations representing—*

13               *(1) State and local law enforcement officers;*

14               *(2) State and local prosecutors;*

15               *(3) the criminal defense bar;*

16               *(4) bail bond agents;*

17               *(5) bounty hunters; and*

18               *(6) corporate sureties.*

19       *(b) RECOMMENDATIONS.—The guidelines developed*  
20       *under subsection (a) shall include recommendations of the*  
21       *Attorney General regarding whether—*

22               *(1) a person seeking employment as a bounty*  
23       *hunter should—*

24                       *(A) be required to submit to a fingerprint-*  
25       *based criminal background check prior to enter-*

1            *ing into the performance of duties pursuant to*  
2            *employment as a bounty hunter; or*

3                    *(B) not be allowed to obtain such employ-*  
4                    *ment if that person has been convicted of a fel-*  
5                    *ony offense under Federal or State law;*

6                    *(2) bounty hunters and bounty hunter employers*  
7                    *should be required to obtain adequate liability insur-*  
8                    *ance for actions taken in the course of performing du-*  
9                    *ties pursuant to employment as a bounty hunter; and*

10                   *(3) State laws should provide—*

11                            *(A) for the prohibition on bounty hunters*  
12                            *entering any private dwelling, unless the bounty*  
13                            *hunter first knocks on the front door and an-*  
14                            *nounces the presence of 1 or more bounty hunt-*  
15                            *ers; and*

16                            *(B) the official recognition of bounty hunt-*  
17                            *ers from other States.*

18                   *(c) EFFECT ON BAIL.—The guidelines published under*  
19                   *subsection (a) shall include an analysis of the estimated ef-*  
20                   *fect, if any, of the adoption of the guidelines by the States*  
21                   *on—*

22                            *(1) the cost and availability of bail; and*

23                            *(2) the bail bond agent industry.*

24                   *(d) NO REGULATORY AUTHORITY.—Nothing in this*  
25                   *section may be construed to authorize the promulgation of*

1 *any Federal regulation relating to bounty hunters, bounty*  
2 *hunter employers, or bail bond agents.*

3       *(e) PUBLICATION OF GUIDELINES.—The Attorney*  
4 *General shall publish model guidelines developed pursuant*  
5 *to subsection (a) in the Federal Register.*