

Testimony Substitute House Bill 439

Erik Castle

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Good Afternoon Chairman Manning, Vice Chairman Rezabek, and Ranking Member Celebrezze. Thank you for the opportunity to speak to you and your fellow members of the Ohio House Criminal Justice Committee. I would like to introduce myself; my name is Erik Castle, I am a member of the Ohio Professional Bail Association and have been involved in the bail industry for six years. I'm also a second generation family member in the bail industry.

My father, Don Castle, first started in the bail business in the 1980's and has gone on to own and operate a successful bail bond business-One that he still maintains to this day. In 2012, after much persistence by my Father, I obtained my surety bail license and began working for him. Although I have only been involved in the business directly for 6 years, I have been around it my entire life. Over the course of my life both directly and indirectly I have been exposed to the inner workings of our criminal justice system, but more specifically, our bail system. In general, this profession has taught me many lessons, but none more important than accountability.

In the most basic sense Bail is designed to achieve one goal or outcome. To ensure the defendants' appearance in court. I cannot think of another system that is as effective as our bail system. When we underwrite a bond or bail for an individual we are undertaking a monetary responsibility insuring that the defendant not only will appear in court, but if for some reason he or she does not-then we will produce their body in court/jail or we will pay the full amount of the bond.

When the defendant does not appear in court the bail forfeiture process begins. In reference to Ohio Revised Code 2937.36 section C, it explains that the court or magistrate must notify the surety within fifteen days after the declaration of the forfeiture and requires the surety to show cause on or before a date certain to be stated in the notice, and shall not be less than forty-five nor more than sixty days from the date of mailing notice, why judgment should not be entered against them for the penalty stated in the recognizance. Essentially this allows us as bondsmen to investigate, research and recover the defendant in a reasonable timeframe and reduces the stress of the court system as well as local law enforcement who often have several warrants to serve and simply do not have the resources to do so.

Unfortunately, if you have been in the business long enough, you are going to encounter clients who do not show up for court. In my personal experience, I have had clients choose not to show up for a variety of reasons. Whether it's because they are unmotivated to resolve their pending case, or they just simply do not want to go. I have also had clients who actively flee. Some will flee across county lines and while others have crossed state lines. Fortunately for bondsmen, unlike local law enforcement, we can cross county lines as well as state lines in order to pursue our defendant. An example of this is best explained in the United State Supreme Court Case Taylor vs Taintor which states, "When bail is given, the principal is regarded as delivered to the custody of his sureties. Their dominion is a continuance of the original imprisonment. Whenever they choose to do so, they may seize him and deliver him up in their discharge; and if that cannot be done at once, they may imprison him until it can be done. They may exercise their rights in person or by agent. They may pursue him into another State; may arrest him on the Sabbath; and if necessary, may break and enter his house for that purpose. It is likened to the rearrests by the sheriff of an escaping prisoner." So what does this mean? Well, it means that our

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current system of bail is the most practical and effective system that we have or could ever have because we can allocate and utilize resources that local law enforcement or court systems cannot.

With this information I think that it is important to point out that when an individual has a warrant issued for failing to appear in court it is issued to the original agency. For example, if an individual is arrested for a misdemeanor theft charge and they fail to appear in court for their pre-trial or trial date a warrant will be issued for the individual through Franklin County with a pick up radius ranging for Franklin County only. If the individual crosses the county line, then Franklin County Sherriff's any local law enforcement do not have jurisdiction to pursue and arrest that individual. The same goes for anyone who crosses the state line. Local law enforcement are not able to pursue individuals across state lines. That privilege is reserved for federal agents and bail bondsmen.

In conclusion, we as the bondsmen or sureties are held accountable by the courts to ensure the defendant's appearance in court and in the instance of a defendants' failure to appear- we have all of the resources necessary to research the defendants whereabouts, recover the defendant, and return to the custody of the corresponding county with minimal losses to us as a company and at no cost to the tax payers. The problem with this is bill is just that-accountability. There is none. With all the information I just provided I am left wondering, if this bill were to pass, who will research, recover, and return the defendants? How will you do it? What will the cost be? And who will bear the burden of that cost? What is the point when there is already a private industry who does it for you?