

# Star-Telegram

## Tarrant County board debates ethics of having lawyers act as bondsmen

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By Yamil Berard

[yberard@star-telegram.com](mailto:yberard@star-telegram.com)

Tarrant County's bail bond board says it has a problem with attorneys who corner people into hiring them as legal counsel when they bond them out of jail.

"I have a real problem that we allow attorneys to make bail bonds in the first place," said District Clerk Tom Wilder, the board's vice chairman. "We're one of the only states to allow them to do that."

But at Wednesday's meeting, a group of attorneys torpedoed efforts to try to improve disclosures to the public. At issue is whether attorneys should be required early on to disclose their dual role to their clients.

A Fort Worth bondsman had proposed that attorneys be required to visit their clients in jail to get their approval for legal services. The board, though, said that was too drastic.

"We may need a toothpick instead of a sledgehammer here," said Judge Steven Williamson of Fort Worth Municipal Court.

The bail bond board has received various complaints that attorneys have forced clients to hire them as legal counsel when the client believes that the attorney is being paid only to post bond.

In some cases, clients are not aware that the attorney is going to represent them in court, and some board members said attorneys should explain the dual roles and separate payments for the separate services. On Wednesday, the board sanctioned a Fort Worth attorney for failing to explain his representation.

The board was largely swayed, though, by the testimony of several Fort Worth attorneys, whose comments created a lively meeting. Typically, bail bond board meetings are a sleepy reunion of county officials, including the district clerk, the county clerk, several judges, a Sheriff's Department official and a county commissioner.

The attorneys said they saw efforts to establish a new rule as an affront to their practices. The system's not broken, so don't fix it, they said.

One attorney likened the debate to a battle between "lions and hyenas."

"Pigs get fat and hogs get slaughtered," attorney J. Don Carter said. "Maybe that's what's happening here. Maybe bondsmen are trying to get a bondsman rule so lawyers don't get to make their ... percent of bonds."

The idea may resurface at the board's March meeting, though. Board members and officials with the district attorney's office say they want to improve disclosures for defendants and their relatives who are suddenly caught up in the machinations of the legal system. Some board members appeared to favor having the bond note describe the dual role of attorneys.

The proposal that drew the most objections Wednesday was crafted by bail bondsman Phil Guiles.

It would have required any attorney not licensed as a bail bond surety to get written permission from the client to serve as both surety and counsel of record in the criminal case. The rule would have also required disclosures of payment plans for the bond amounts and the legal counsel.

Attorneys said that's unreasonable; a lawyer can't go to every jail cell to visit every client to get such approval.

"The requirement of making a lawyer go out to some rural jail and see if he could get in to talk to somebody ... to secure some approval and then come back ... is designed to stifle the process," Fort Worth attorney Mark Daniel said.

Attorney Jim Shaw criticized Wilder's comment that Texas is one of the only states that allow attorneys to write bail bonds.

"Mr. Wilder says there's a problem, always a problem, always a problem when attorneys make bonds," he said. "I don't get it. I don't know what the problem is."

Some board members questioned the ethics of attorneys working both sides of the table.

But others pointed out that any ethical dilemmas created by the attorneys' dual role are more the responsibility of the state bar committee that disciplines attorneys.

"I don't understand why this board keeps concerning itself with ethics opinions," one member said. "Enforcing [the state bar's] code of ethics is not up to this board."

Guiles' proposal was discussed with little fanfare at last month's meeting. He said his goal was to protect the public from being misled by attorneys.

Steven Bell, a Dallas attorney who represents bail bondsmen and criminal defendants, attended last month's meeting and on Wednesday reminded the board of its early discussions to improve disclosures.

"This is not about ethics and trying to take away somebody's right," Bell said. "This is about trying to protect the general public so that the general public understands that when they retain a bondsman, they retain a bondsman. When they retain an attorney, they're retaining an attorney. They're getting what they paid for."

The district attorney's office is expected to unveil new proposals at the board's March 7 meeting.

Read more here: <http://www.star-telegram.com/2012/02/02/3708500/tarrant-county-board-debates-ethics.html#storylink=cpy>

