

The Ledger

Bail Bondsmen Legislation: Protect Pretrial Services

Published: Wednesday, May 4, 2011 at 12:07 a.m.

Last Modified: Wednesday, May 4, 2011 at 12:07 a.m.

The Bail Bondsmen's Support and Relief Act is moving toward approval quickly in the Florida Legislature. The progress of this special-interest legislation should be arrested — quickly, before Floridians pay unnecessary costs.

The legislation is officially and innocuously identified as Senate Bill 1398 and House Bill 1379. Yet it is overtly and shamelessly intended to protect the turf — and increase the revenue — of the multimillion-dollar bail-bond industry and its benefactors in banking and insurance.

Just as concerning, the bills — sponsored by Sen. Ellyn Bogdanoff, R-Fort Lauderdale, and Rep. Chris Dorworth, R-Lake Mary — would eliminate or severely restrict beneficial local-government pretrial programs.

For instance, according to the bills, defendants with incomes greater than a moderate level would be prevented from participating in pretrial services. These people could only get out of jail if they were released by a judge on their own recognizance, posted the entire amount of bail with the court, or, more likely, paid a bondsman a nonrefundable premium of 10 percent of the bail and put up collateral, such as a house or car. What's more, defendants who had ever been charged with even a single count of failing to appear in court would be required to use a bondsman to get out of jail.

Dorworth, who aspires to be speaker of the House, claims the pretrial programs have overreached their purpose and are "in direct competition with private interests." It is Dorworth overreaching.

PROGRAMS' POSITIVE EFFECTS

Bonding companies, report Justice Department studies, have good records of ensuring that the people they bail out appear for hearings and trials.

The appearance rates of individuals involved in the 28 pretrial programs in Florida are mixed.

By implementing pretrial-service programs, counties have:

Maintained the size of the county jail populations at manageable levels, thereby lowering the costs to taxpayers of caring for inmates and reducing the need for additional detention facilities.

Enabled defendants who can't afford to pay a bail bondsman or provide adequate collateral to be released from jail — with conditions — before their cases are disposed by the legal system.

Instead of spending their time before trial or disposition in jail, at taxpayers' expense, released defendants can return to work, if they have jobs, so they can pay both taxes and their bills. Instead of paying nonrefundable premiums to bonding companies, released defendants can use that money to stay out of deeper financial trouble.

Provided more active supervision of the defendants while they are out of jail — through monitoring, drug testing and such — than they would normally receive after being bailed out.

Many judges are concerned about the bills because they would reduce the number of defendants interviewed by pretrial staff before first-appearance hearings. During those hearings, judges must determine whether — and under what circumstances — detainees will be released. In the absence of information from pretrial-services staff, judges will be hindered in their decision-making and more likely to make errors that could threaten public safety.

SMALL COSTS, BIG SAVINGS

Bonding companies have a point: They ensure that people show up in court, without cost to taxpayers. But the companies and their supporters fail to recognize the small cost of pretrial services, and the substantial savings and benefits they provide.

Florida law clearly favors pretrial releases based on nonmonetary conditions. The law states: "It is the intent of the Legislature to create a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release."

The passage of Senate Bill 1398 and House Bill 1379 would undermine that sensible presumption of the Legislature.

Support for the bills also ignores the opposition clearly voiced by associations representing Florida's county commissions, sheriffs, state prosecutors and public defenders.

Dorworth dismissed those groups and their duly elected members as bureaucrats who've been asked "not to compete against private industry."

The fact is, the bills seek to protect the bail-bond industry from competition provided by successful alternatives.