



RYAN GUILLEN
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TEXAS STATE REPRESENTATIVE

RQ - 0286 - KP

FILE # ML-48549-19

I.D. # 48549

April 11, 2019

The Honorable Ken Paxton
Texas Attorney General
Office of the Attorney General
Attention: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

RE: RQ – 0250 – KP: Whether Chapter 1704, Texas Occupations Code, prohibits a jail or detention facility from using a third party contractor to provide jailed individuals information on available bail bond services.

Attorney General Paxton and the Opinion Committee:

In September of 2018, Chairman Rene Oliveira requested a letter of opinion on the subject matter that the Attorney General numbered as RQ – 0250 – KP. However, the Attorney General’s office subsequently closed this request due to a unique set of circumstances.

I would respectfully ask for the Attorney General’s office to reopen RQ – 250 – KP to consider the matter of statutory prohibition of a bail bond surety or an agent of a bail bond surety to solicit business inside a county or local jail by providing informational signboards that allow access to bail agent information within the jail facility and under the control of the jail administration.

Section 1704.105(b), of the Texas Occupations Code, mandates that a list of licensed sureties be displayed where prisoners are held. In other states, custodial authorities have permitted or contracted with third parties for the posting of informational sign boards within the facilities. The preparation of these signboards may involve costs to, and the active participation of, licensed bail agents or associations of bail agents, and may involve the payment of fees from the third party contractor to the local governmental agency.

Bail bond boards in Texas have expressed concerns about individual jails using informational signboards due to a perceived solicitation prohibition in the Texas Occupations Code, Title 10, Chapter 1704, Subchapter G, Sec. 304, of the Texas Occupation Code, Prohibited Recommendations or Solicitations; Offense.

Sec. 1704.304 (c) reads as follows: *A bail bond surety or an agent of a bail bond surety may not solicit bonding business in a police station, jail, prison, detention facility, or other place of detainment for persons in the custody of law enforcement.*

It appears the above statute seems to run into constitutional issues raised by *Pruett v. Harris County Bail Bond* where the U.S. Court of Appeals, Fifth Circuit ruled in 2007 in favor of the plaintiffs.

Pruett was a case filed in 1983 by two bail bondsmen challenging the Texas Occ. Code 1704.109, claiming solicitation of potential customers was a denial of their First Amendment rights. The district court agreed, concluding that all but one of the restrictions violates the bondsmen's right to commercial speech.

Because I am asking the Attorney General's office to reopen this case and provide a decision on RQ – 0250 – KP, I am hopeful that we don't have to wait the full 180 days for a ruling, and rather, that you consider the time already spent on this case and render a decision accordingly within the time remaining to complete this request for opinion.

Thank you for your attention and consideration of this matter.

Best Regards



Ryan Guillen
Chair
House Committee on Resolutions Calendars