

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0508.03 Debbie Haskins x2045

HOUSE BILL 17-1369

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HOUSE SPONSORSHIP

Pabon,

SENATE SPONSORSHIP

Marble,

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House Committees  
Finance

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING BOND PROCEDURES FOR PERSONS NOT APPEARING IN  
102 COURT DUE TO IMMIGRATION-RELATED ISSUES.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill is known as the "Bond Surety Protection Act".

The bill changes what happens with bonds posted for a defendant's appearance if a defendant is determined to be illegally present in the country and doesn't appear in court due to being removed from the country. Instead of forfeiture of the bond, a compensated surety who posted bond or a bail bonding agent who posted bond, or a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

noncompensated surety, such as a family member or friend, who executed a bail bond for a defendant, is exonerated from liability on the bond if the compensated surety or the noncompensated surety provides satisfactory evidence to the court that the defendant has been removed from the country. The bill requires the court to exonerate the bail bond if all of the following occur:

- ! The compensated or noncompensated surety files a motion requesting exoneration of the bail bond;
- ! The compensated or noncompensated surety files an affidavit along with the motion describing with particularity how the surety came to know that the defendant was removed from the United States, including the date of removal, if known, and the name of the person and contact information of the person who provided that information, if known; and
- ! The district attorney does not object.

The bill repeals current law that requires notification of people or sureties that their bond or fees will be forfeited if the defendant is removed from the country. On and after the effective date of the bill, a law enforcement agency holding a person charged with a criminal offense is prohibited from notifying the defendant's bail bonding agent or noncompensated surety before the bond is posted that his or her bond or fees will be forfeited if the defendant is removed from the country, and law enforcement officers are prohibited from asking a defendant or a person other than a bail bonding agent to execute a waiver that states that he or she understands that the bond or fees shall be forfeited if the defendant is removed from the country. A bail bonding agent shall not communicate to a defendant that his or her bond fees shall be forfeited if the defendant is removed from the country.

The bill repeals current law regarding the crediting of revenue from forfeited bonds into the county jail assistance fund. The bill directs the state treasurer to transfer the balance remaining in the county jail assistance fund to the general fund and then abolishes and repeals the county jail assistance fund.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1. Short title.** This act is known as the "Bond Surety  
3 Protection Act".

4           **SECTION 2.** In Colorado Revised Statutes, 16-4-110, **add** (1)(f)  
5 as follows:

1           **16-4-110. Exoneration from bond liability.** (1) Any person  
2           executing a bail bond as principal or as surety shall be exonerated as  
3           follows:

4           (f) WHEN THE SURETY PROVIDES SATISFACTORY EVIDENCE TO THE  
5           COURT THAT THE DEFENDANT HAS BEEN REMOVED FROM THE COUNTRY.  
6           THE COURT SHALL EXONERATE THE BAIL BOND IF ALL OF THE FOLLOWING  
7           OCCUR:

8           (I) THE SURETY FILES A MOTION REQUESTING EXONERATION OF  
9           THE BAIL BOND;

10          (II) THE SURETY FILES AN AFFIDAVIT ALONG WITH THE MOTION  
11          DESCRIBING WITH PARTICULARITY HOW THE SURETY CAME TO KNOW THAT  
12          THE DEFENDANT WAS REMOVED FROM THE UNITED STATES, INCLUDING  
13          THE DATE OF REMOVAL, IF KNOWN, AND THE NAME OF THE PERSON AND  
14          CONTACT INFORMATION OF THE PERSON WHO PROVIDED THAT  
15          INFORMATION, IF KNOWN; AND

16          (III) THE DISTRICT ATTORNEY DOES NOT OBJECT.

17          **SECTION 3.** In Colorado Revised Statutes, 16-4-114, **add**  
18          (5)(b)(VI) as follows:

19          **16-4-114. Enforcement procedures for compensated sureties**  
20          **- definitions.** (5) Liability of bond obligors on bonds issued by  
21          compensated sureties may be enforced, without the necessity of an  
22          independent action, as follows:

23          (b) (VI) A COMPENSATED SURETY SHALL BE EXONERATED FROM  
24          LIABILITY UPON THE BOND WHEN THE SURETY PROVIDES SATISFACTORY  
25          EVIDENCE TO THE COURT THAT THE DEFENDANT HAS BEEN REMOVED FROM  
26          THE COUNTRY PURSUANT ACTION BY A FEDERAL IMMIGRATION AGENCY  
27          WHILE ON BOND. THE COURT SHALL EXONERATE THE BAIL BOND IF ALL OF

1 THE FOLLOWING OCCUR:

2 (A) THE COMPENSATED SURETY FILES A MOTION REQUESTING  
3 EXONERATION OF THE BAIL BOND;

4 (B) THE COMPENSATED SURETY FILES AN AFFIDAVIT ALONG WITH  
5 THE MOTION DESCRIBING WITH PARTICULARITY HOW THE COMPENSATED  
6 SURETY CAME TO KNOW THAT THE DEFENDANT WAS REMOVED FROM THE  
7 UNITED STATES, INCLUDING THE DATE OF REMOVAL, IF KNOWN, AND THE  
8 NAME OF THE PERSON AND CONTACT INFORMATION OF THE PERSON WHO  
9 PROVIDED THAT INFORMATION, IF KNOWN; AND

10 (C) THE DISTRICT ATTORNEY DOES NOT OBJECT.

11 **SECTION 4.** In Colorado Revised Statutes, **repeal and reenact,**  
12 **with amendments,** 16-3-503 as follows:

13 **16-3-503. Bonds for persons with immigration-related issues.**

14 ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, A LAW  
15 ENFORCEMENT AGENCY HOLDING A DEFENDANT CHARGED WITH A  
16 CRIMINAL OFFENSE SHALL NOT NOTIFY THE DEFENDANT'S BAIL BONDING  
17 AGENT OR A NONCOMPENSATED SURETY BEFORE THE BOND IS POSTED  
18 THAT HIS OR HER BOND OR FEES MAY BE FORFEITED IF THE DEFENDANT IS  
19 REMOVED FROM THE COUNTRY. ON AND AFTER THE EFFECTIVE DATE OF  
20 THIS SECTION, A LAW ENFORCEMENT OFFICER SHALL NO LONGER ASK A  
21 DEFENDANT OR A PERSON OTHER THAN A BAIL BONDING AGENT TO  
22 EXECUTE A WAIVER PRIOR TO POSTING A BOND FOR A PERSON CHARGED  
23 WITH A CRIMINAL OFFENSE THAT STATES THAT HE OR SHE UNDERSTANDS  
24 THAT THE BOND OR FEES SHALL BE FORFEITED IF THE DEFENDANT IS  
25 REMOVED FROM THE COUNTRY. A BAIL BONDING AGENT SHALL NOT  
26 COMMUNICATE TO A DEFENDANT THAT HIS OR HER BOND OR FEES SHALL  
27 BE FORFEITED IF THE DEFENDANT IS REMOVED FROM THE COUNTRY.

1           **SECTION 5.** In Colorado Revised Statutes, **amend** 17-26-137 as  
2 follows:

3           **17-26-137. County jail assistance fund - repeal.** (1) The  
4 ~~moneys~~ MONEY collected pursuant to section 16-3-503 (1) ~~C.R.S.~~, shall  
5 be transmitted to the state treasurer, who shall credit the same to the  
6 county jail assistance fund, which fund is hereby created and referred to  
7 in this section as the "fund". The ~~moneys~~ MONEY in the fund shall be  
8 subject to annual appropriation by the general assembly to the department  
9 of corrections for allocation to counties for the maintenance and operation  
10 of county jails. Any ~~moneys~~ MONEY in the fund not expended for the  
11 purpose of this section may be invested by the state treasurer as provided  
12 by law. All interest and income derived from the investment and deposit  
13 of ~~moneys~~ MONEY in the fund shall be credited to the fund. ~~Any~~  
14 ~~unexpended and unencumbered moneys~~ THE STATE TREASURER SHALL  
15 TRANSFER ALL UNEXPENDED AND UNENCUMBERED MONEY remaining in  
16 the fund ~~at the end of a fiscal year shall remain in the fund and shall not~~  
17 ~~be credited or transferred~~ ON JUNE 30, 2017, to the general fund, ~~or~~  
18 ~~another fund~~ AND THE FUND IS ABOLISHED.

19           (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2017.

20           **SECTION 6. Safety clause.** The general assembly hereby finds,  
21 determines, and declares that this act is necessary for the immediate  
22 preservation of the public peace, health, and safety.