

CHAPTER 106

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 06-1190

BY REPRESENTATIVE(S) Crane, Berens, Butcher, Coleman, Jahn, Kerr, Massey, Gardner, May M., Romanoff, Rose, Stafford, Stengel, and Witwer;
also SENATOR(S) Jones.

AN ACT**CONCERNING STRENGTHENING EXTRADITION LAWS.**

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

SECTION 1. Article 19 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

16-19-119.5. Custody pending arrival of agent of the demanding state. UPON ORDERING THE DELIVERY OF A FUGITIVE FORTHWITH TO THE AGENT OF A DEMANDING STATE, A JUDGE SHALL ALLOW THE AGENT OF THE DEMANDING STATE A PERIOD OF NOT LESS THAN FIFTEEN DAYS AND NOT MORE THAN THIRTY DAYS FROM THE DATE OF THE ORDER WITHIN WHICH TO COMPLETE TRANSPORTATION ARRANGEMENTS, TRAVEL TO THIS STATE, AND APPEAR TO TAKE CUSTODY OF THE FUGITIVE. DURING THIS PERIOD, PENDING THE ARRIVAL OF THE AGENT OF THE DEMANDING STATE, THE FUGITIVE SHALL REMAIN IN CUSTODY IN THIS STATE WITHOUT BAIL AND SHALL NOT BE DISCHARGED.

SECTION 2. 16-4-103 (2), Colorado Revised Statutes, is amended to read:

16-4-103. Fixing of bail and conditions of bail bond. (2) (a) A condition of every bail bond, and the only condition for a breach of which a surety or security on the bail bond may be subjected to forfeiture, is that the released person appear to answer the charge against such person at a place and upon a date certain and at any place or upon any date to which the proceeding is transferred or continued.

(b) FOR A DEFENDANT WHO HAS BEEN ARRESTED FOR A FELONY OFFENSE, A CONDITION OF BAIL BOND SHALL BE THAT THE COURT SHALL REQUIRE THE DEFENDANT TO EXECUTE OR SUBSCRIBE A WRITTEN PRIOR WAIVER OF EXTRADITION

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

STATING THAT THE DEFENDANT CONSENTS TO EXTRADITION TO THIS STATE AND WAIVES ALL FORMAL PROCEDURES INCIDENTAL TO EXTRADITION PROCEEDINGS IN THE EVENT THAT HE OR SHE IS ARRESTED IN ANOTHER STATE WHILE AT LIBERTY ON SUCH BAIL BOND AND ACKNOWLEDGING THAT HE OR SHE SHALL NOT BE ADMITTED TO BAIL IN ANY OTHER STATE PENDING EXTRADITION TO THIS STATE.

(c) Further conditions of every bail bond shall be that the released person not commit any felony while at liberty on such bail bond and that the court in which the action is pending have the power to revoke the release of the defendant, to increase the bail bond, or to change any bail bond condition if it is shown that a competent court has found probable cause to believe that the defendant has committed a felony while released pending adjudication of a prior felony charge.

(d) A further condition of every bail bond in cases of domestic violence as defined in section 18-6-800.3 (1), C.R.S., shall be that the released person acknowledge the protection order as provided in section 18-1-1001 (5), C.R.S.

(e) A further condition of every bail bond in a case of an offense under section 42-2-138 (1) (d) (I), C.R.S., of driving while such person's driver's license or privilege to drive, either as a resident or nonresident, is restrained solely or partially because of a conviction of a driving offense pursuant to section 42-4-1301 (1) or (2) (a), C.R.S., shall be that such person not drive any motor vehicle during the period of such driving restraint.

(f) In addition TO THE CONDITIONS SPECIFIED IN THIS SUBSECTION (2), the judge may impose such additional conditions upon the conduct of the defendant as will, in the judge's opinion, render it more likely that the defendant will fulfill the other bail bond conditions. These additional conditions may include submission of the defendant to the supervision of some qualified person or organization.

SECTION 3. 16-4-201 (1), Colorado Revised Statutes, is amended to read:

16-4-201. Bail after conviction. (1) (a) After conviction, either before or after sentencing, the defendant may orally, or in writing, move for release on bail pending determination of a motion for a new trial or motion in arrest of judgment or during any stay of execution or pending review by an appellate court, and, except in cases where the defendant has been convicted of a capital offense, the trial court, in its discretion, may continue the bond given for pretrial release, or may release the defendant on increased bail, or require bond under one or more of the alternatives set forth in section 16-4-104.

(b) The district attorney must be present at the time the court passes on a defendant's motion for release on bail after conviction.

(c) No bond shall be continued in effect following a plea of guilty or of nolo contendere or following conviction unless the written consents of the sureties, if any, are filed of record. No court shall require the posting of any form of bond ~~which~~ THAT allows for the continuance of said bond after a plea of guilty or of nolo contendere or following conviction without the filing of record of written consents of the sureties, if any.

(d) FOR A DEFENDANT WHO HAS BEEN CONVICTED OF A FELONY OFFENSE, A CONDITION OF BAIL BOND SHALL BE THAT THE COURT SHALL REQUIRE THE DEFENDANT TO EXECUTE OR SUBSCRIBE A WRITTEN PRIOR WAIVER OF EXTRADITION STATING THAT THE DEFENDANT CONSENTS TO EXTRADITION TO THIS STATE AND WAIVES ALL FORMAL PROCEDURES INCIDENTAL TO EXTRADITION PROCEEDINGS IN THE EVENT THAT HE OR SHE IS ARRESTED IN ANOTHER STATE WHILE RELEASED ON SUCH BAIL BOND AND ACKNOWLEDGING THAT HE OR SHE SHALL NOT BE ADMITTED TO BAIL IN ANY OTHER STATE PENDING EXTRADITION TO THIS STATE.

SECTION 4. 18-1.3-204, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

18-1.3-204. Conditions of probation. (1.5) IF THE DEFENDANT IS BEING SENTENCED TO PROBATION AS A RESULT OF A CONVICTION OF A FELONY OFFENSE, A CONDITION OF PROBATION SHALL BE THAT THE COURT SHALL REQUIRE THE DEFENDANT TO EXECUTE OR SUBSCRIBE A WRITTEN PRIOR WAIVER OF EXTRADITION STATING THAT THE DEFENDANT CONSENTS TO EXTRADITION TO THIS STATE AND WAIVES ALL FORMAL PROCEDURES INCIDENTAL TO EXTRADITION PROCEEDINGS IN THE EVENT THAT HE OR SHE IS ARRESTED IN ANOTHER STATE WHILE AT LIBERTY ON SUCH BAIL BOND AND ACKNOWLEDGING THAT HE OR SHE SHALL NOT BE ADMITTED TO BAIL IN ANY OTHER STATE PENDING EXTRADITION TO THIS STATE.

SECTION 5. 17-2-201 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

17-2-201. State board of parole. (5) (k) AS A CONDITION OF EVERY GRANT OF PAROLE, THE BOARD SHALL REQUIRE THE OFFENDER TO EXECUTE A WRITTEN PRIOR WAIVER OF EXTRADITION STATING THAT THE OFFENDER CONSENTS TO EXTRADITION TO THIS STATE AND WAIVES ALL FORMAL PROCEDURES INCIDENTAL TO EXTRADITION PROCEEDINGS IN THE EVENT THAT THE OFFENDER IS ARRESTED IN ANOTHER STATE UPON AN ALLEGATION THAT THE DEFENDANT HAS VIOLATED THE TERMS OF HIS OR HER PAROLE, AND ACKNOWLEDGING THAT THE OFFENDER SHALL NOT BE ADMITTED TO BAIL IN ANY OTHER STATE PENDING EXTRADITION TO THIS STATE.

SECTION 6. 18-1.3-301 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

18-1.3-301. Authority to place offenders in community corrections programs. (1) (b.5) AS A CONDITION OF EVERY PLACEMENT IN A COMMUNITY CORRECTIONS PROGRAM, THE COURT SHALL REQUIRE THE OFFENDER, AS A CONDITION OF PLACEMENT, TO EXECUTE OR SUBSCRIBE A WRITTEN PRIOR WAIVER OF EXTRADITION STATING THAT THE OFFENDER CONSENTS TO EXTRADITION TO THIS STATE AND WAIVES ALL FORMAL PROCEDURES INCIDENTAL TO EXTRADITION PROCEEDINGS IN THE EVENT THAT THE OFFENDER IS ARRESTED IN ANOTHER STATE UPON AN ALLEGATION THAT THE OFFENDER HAS VIOLATED THE TERMS OF HIS OR HER COMMUNITY CORRECTIONS PLACEMENT, AND ACKNOWLEDGING THAT THE OFFENDER SHALL NOT BE ADMITTED TO BAIL IN ANY OTHER STATE PENDING EXTRADITION TO THIS STATE.

SECTION 7. 16-19-134 (1), Colorado Revised Statutes, is amended to read:

16-19-134. Securing the attendance of a defendant who is outside the United States. (1) When a criminal action for an offense committed in this state is pending in a criminal court of this state against a defendant who is in a foreign country with which the United States has an extradition treaty, and when the accusatory instrument charges an offense that is declared in the treaty to be an extraditable offense, AND WHEN the district attorney of the judicial district in which the offense was allegedly committed ~~may~~ DESIRES THE INTERNATIONAL EXTRADITION OF THE DEFENDANT, THE DISTRICT ATTORNEY SHALL apply to the governor, requesting ~~him~~ ~~or her~~ THE GOVERNOR to apply to the president of the United States, to institute extradition proceedings for the return of the defendant to this country and state for the purpose of prosecution of the action. The district attorney's application shall comply with the rules, regulations, and guidelines established by the governor for such applications and shall be accompanied by all of the accusatory instruments, affidavits, and other documents required by the governor's rules, regulations, and guidelines.

SECTION 8. Effective date. This act shall take effect July 1, 2006.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 5, 2006