

## CHAPTER 397

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**CRIMINAL LAW AND PROCEDURE**

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SENATE BILL 14-212

BY SENATOR(S) Ulibarri;  
also REPRESENTATIVE(S) Lee, Kagan, Labuda.**AN ACT****CONCERNING CLARIFYING CHANGES TO THE PROVISIONS RELATED TO BEST PRACTICES IN BOND SETTING.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** In Colorado Revised Statutes, 16-4-103, **amend** (1) as follows:

**16-4-103. Setting and selection type of bond - criteria.** (1) At the first appearance of a person in custody before ~~a court of record~~ ANY COURT OR ANY PERSON DESIGNATED BY THE COURT TO SET BOND, the court OR PERSON shall determine the type of bond and conditions of release unless the person is subject to the provisions of section 16-4-101.

**SECTION 2.** In Colorado Revised Statutes, 16-4-104, **amend** (1) (c) introductory portion as follows:

**16-4-104. Types of bond set by the court.** (1) The court shall determine, after consideration of all relevant criteria, which of the following types of bond is appropriate for the pretrial release of a person in custody, subject to the relevant statutory conditions of release listed in section 16-4-105. The person may be released upon execution of:

(c) A bond with secured monetary conditions when reasonable and necessary to ensure the appearance of the person in court or the safety of any person or persons or the community. The financial conditions shall state an amount of money that the person must post with the court in order for the person to be released. The person may be released from custody upon execution of bond in the full amount of money to be secured ~~in~~ BY any one of the following ~~ways~~ METHODS, AS SELECTED BY THE PERSON TO BE RELEASED, UNLESS THE COURT MAKES FACTUAL FINDINGS ON THE

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

RECORD WITH RESPECT TO THE PERSON TO BE RELEASED THAT A CERTAIN METHOD OF BOND, AS SELECTED BY THE COURT, IS NECESSARY TO ENSURE THE APPEARANCE OF THE PERSON IN COURT OR THE SAFETY OF ANY PERSON, PERSONS, OR THE COMMUNITY:

**SECTION 3.** In Colorado Revised Statutes, 16-4-105, **amend** (4) as follows:

**16-4-105. Conditions of release on bond.** (4) An additional condition of every bond in cases of domestic violence as defined in section 18-6-800.3 (1), C.R.S., OR IN CASES OF STALKING UNDER SECTION 18-3-602, C.R.S., is that the released person acknowledge the protection order as provided in section 18-1-1001 (5), C.R.S.

**SECTION 4.** In Colorado Revised Statutes, 16-4-106, **amend** (4) (c) as follows:

**16-4-106. Pretrial services programs.** (4) Any pretrial services program approved pursuant to this section must meet the following criteria:

(c) The program, in conjunction with the community advisory board, must make all reasonable efforts to implement an empirically developed pretrial risk assessment tool, TO BE USED BY THE PROGRAM, THE COURT, AND THE PARTIES TO THE CASE SOLELY FOR THE PURPOSE OF ASSESSING PRETRIAL RISK, and a structured decision-making design based upon the person's charge and the risk assessment score; AND

**SECTION 5.** In Colorado Revised Statutes, **amend** 16-4-107 as follows:

**16-4-107. Hearing after setting of monetary conditions of bond.** (1) (a) If a person is in custody and the court imposed a monetary CONDITION OF bond for release, and the person, after seven days from the setting of the monetary CONDITION OF bond, is unable to meet the monetary obligations of the bond, the person may file a written motion for reconsideration of the monetary conditions of the bond. The person may only file the written motion PURSUANT TO THIS SECTION ONE TIME DURING THE PENDENCY OF THE CASE AND MAY ONLY FILE THE WRITTEN MOTION if he or she believes that, upon presentation of evidence not fully considered by the court, he or she is entitled to a personal recognizance bond or an unsecured bond with conditions of release or a change in the monetary conditions of bond. The court shall promptly conduct a hearing on this motion for reconsideration, but the hearing must be held within fourteen days after the filing of the motion. However, the court may summarily deny the motion if the court finds that there is no additional evidence not fully considered by the court presented in the written motion. In considering the motion, the court shall consider the results of any empirically developed risk assessment instrument.

(b) NOTHING IN THIS SECTION SHALL PRECLUDE A PERSON FROM FILING A MOTION FOR RELIEF FROM A MONETARY CONDITION OF BOND PURSUANT TO SECTION 16-4-109 AT ANY TIME DURING THE PENDENCY OF THE CASE.

**SECTION 6.** In Colorado Revised Statutes, 16-4-110, **amend** (2) as follows:

**16-4-110. Exoneration from bond liability.** (2) If, within fourteen days after the posting of a bond by a defendant, the terms and conditions of ~~said~~ THE bond are

changed or altered either by order of court or upon the motion of the district attorney or the defendant, the court, after a hearing, may order a compensated surety to refund a portion of the premium paid by the defendant, if necessary AND SUPPORTED BY FACTUAL FINDINGS, to prevent unjust enrichment. If more than fourteen days have elapsed after posting of a bond by a defendant, the court shall not order the refund of any premium.

**SECTION 7.** In Colorado Revised Statutes, 16-4-111, **amend** (3) as follows:

**16-4-111. Disposition of security deposits upon forfeiture or termination of bond.** (3) ~~Where~~ WHEN the defendant has been released upon deposit of cash ~~stocks, bonds,~~ or property, UPON AN UNSECURED PERSONAL RECOGNIZANCE BOND WITH A MONETARY CONDITION PURSUANT TO SECTION 16-4-104 (1) (a) OR (1) (b), or upon a surety bond secured by property, if the defendant fails to appear in accordance with the primary condition of the bond, the court shall declare a forfeiture. Notice of the order of forfeiture shall be mailed by the court to the defendant, all sureties, and all depositors or assignees of any deposits of cash or property if such sureties, depositors, or assignees have direct contact with the court, at their last-known addresses. Such notice shall be sent within fourteen days after the entry of the order of forfeiture. If the defendant does not appear and surrender to the court having jurisdiction within thirty-five days from the date of the forfeiture or within that period satisfy the court that appearance and surrender by the defendant is impossible and without fault by such defendant, the court may enter judgment for the state against the defendant for the amount of the bond and costs of the court proceedings. Any cash deposits made with the clerk of the court shall be applied to the payment of costs. If any amount of such cash deposit remains after the payment of costs, it shall be applied to payment of the judgment.

**SECTION 8.** In Colorado Revised Statutes, 18-3-602, **amend** (8) (a) as follows:

**18-3-602. Stalking - penalty - definitions - Vonnie's law.** (8) (a) When a person is arrested for an alleged violation of this section, the fixing of bail for the crime of stalking shall be done in accordance with section ~~16-4-103 (2) (d),~~ 16-4-105 (4), C.R.S., and a protection order shall issue in accordance with section 18-1-1001(5).

**SECTION 9. Effective date.** This act takes effect July 1, 2014.

**SECTION 10. 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: June 6, 2014