

SUPPORT SB 14-212 CLARIFYING CHANGES TO THE PROVISIONS RELATED TO BEST PRACTICES IN BOND SETTING

Sponsored by Senator Ulibarri and Representative Lee

What does SB 14-212 do? This bill makes 7 clarifying changes to last year's CCJJ bill HB 13-1236 which changed some of the bonding statutes in Colorado.

HB 13-1236 passed the Senate 35-0 and the House 63-1.

The changes are:

- 1) At first appearance of a person in custody before a court or person designated by the court to set bond, the type of bond and conditions of release are determined.**

Why needed: Current statutes allow the courts to designate persons/bonding commissioners on a 24 hour basis to make release/detain decisions for persons arrested without an arrest warrant. (Note: If a person is arrested pursuant to a warrant, the bond is set by the judge issuing the warrant.) This change conforms the law and prevents the jailing of persons who do not need to be jailed and allows for the immediate setting of bond for those who need or are required to be detained.

This provision is NOT designed to expand pretrial services programs. It is designed to make this particular section of Colorado law clear that decisions can be made before a person appear in a "court of record" and that a court not "of record" can still make bond decisions. The Chief Judge sets the system. All jurisdictions have the local authority to establish the process that works for them. This does NOT change that.

- 2) Inserts new language into the statute that allows for the person to be released to select the methods of release – cash, property or surety – and the court may only select a specific method of release after factual findings that the particular method is necessary to ensure the appearance of the person in court or the safety of others.**

Why needed: This language was requested by the bail industry and drafted , in conjunction with law enforcement and other stakeholders, to address industry concerns and other concerns about cash only types of bonds.

- 3) Inset new language in the section of law that allows a court to order a bonding agent to return to the defendant part of the premium. Requires the court to make a factual finding before the court order a refund.**

Why needed: This language requested by the bail industry and drafted in conjunction with stakeholders to the industry a full and fair opportunity to be heard regarding any refund of premium.

- 4) Adds the crime of stalking back into the language regarding mandatory protection orders.**

Why needed: Mistakenly left out last year.

- 5) Clarifies that a risk assessment instrument shall be used only for purposes of assessing pretrial risk

Why needed: This instrument is new to some jurisdictions in Colorado. It is only validated for pretrial risk and should not be used for other criminal justice purposes like sentencing decisions.

- 6) Clarifies that the bond reduction hearing that is subject to a mandatory consideration by a court within 14 days can only be filed once by the defendant but the defendant can make other requests for bond reduction that the court can hear in its discretion. (the CCJJ intent)

Why needed: This exactly what the court must rule on within 14 days (current law) and what does not fall within the 14 day rule since practitioners were getting different interpretations by courts.

- 7) Clarifies that on an unsecured bond with monetary conditions that court can forfeit the monetary amount of the bond if the defendant fails to appear.

Why needed: Language left out of the bill last year.

THIS BILL IS SUPPORTED BY THE COLORADO DISTRICT ATTORNEYS COUNCIL, THE COLORADO STATE PUBLIC DEFENDER, THE COUNTY SHERIFFS OF COLORADO, AND THE COLORADO CRIMINAL DEFENSE BAR.

THIS BILL WAS DRAFTED WITH THE ASSISTANCE OF THE REPRESENTATIVES OF AMERICAN BAIL ORGANIZATION, AND THE PROFESSIONAL BAIL AGENTS OF COLORADO ALONG WITH THE DEFENSE AND PROSECUTION STAKEHOLDERS.

PLEASE SUPPORT SB 14-212.