

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0717.01 Michael Dohr x4347

HOUSE BILL 13-1236

HOUSE SPONSORSHIP

Levy, Labuda, Lee

SENATE SPONSORSHIP

Ulibarri, Giron, Guzman

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING PRE-TRIAL RELEASE FROM CUSTODY.

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://www.leg.state.co.us/billsummaries>.)

The bill repeals and reenacts the provisions of the criminal procedure code related to bail bonds. The new provision places a greater emphasis on evidence-based and individualized decision-making during the bond-setting process and discourages use of monetary conditions for bond. The bill makes conforming amendments.

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-1-104, **amend** (3);
3 and **add** (9.5) as follows:

4 **16-1-104. Definitions.** (3) "Bail" means ~~the amount of money set~~
5 ~~by the court which is required to be obligated by a bond for the release of~~
6 ~~a person in custody to assure that he will appear before the court in which~~
7 ~~his appearance is required or that he will comply with other conditions set~~
8 ~~forth in a bond~~ A PLEDGE, SUCH AS A BOND, REQUIRED BY A COURT FOR
9 THE RELEASE OF A PERSON IN CUSTODY WITH CONDITIONS SET TO PROVIDE
10 REASONABLE ASSURANCE OF PUBLIC SAFETY AND COURT APPEARANCE.

11 (9.5) "EVIDENCE-BASED DECISION-MAKING" MEANS
12 DECISION-MAKING THAT INCORPORATES INTO THE BAIL PROCESS
13 SIGNIFICANT AND RELEVANT SCIENTIFICALLY BASED RESEARCH.
14 SCIENTIFICALLY BASED RESEARCH MEANS RESEARCH THAT OBTAINS
15 RELIABLE AND VALID KNOWLEDGE BY EMPLOYING SYSTEMATIC,
16 EMPIRICAL METHODS THAT TEST THE STATED HYPOTHESES AND JUSTIFY
17 THE GENERAL CONCLUSIONS DRAWN.

18 **SECTION 2.** In Colorado Revised Statutes, **repeal and reenact,**
19 **with amendments,** part 1 of article 4 of title 16 as follows:

20 PART 1

21 RELEASE ON BAIL

22 **16-4-101. Bailable offenses - definitions.** (1) ALL PERSONS
23 SHALL BE BAILABLE BY SUFFICIENT SURETIES EXCEPT:

24 (a) FOR CAPITAL OFFENSES WHEN PROOF IS EVIDENT OR
25 PRESUMPTION IS GREAT; OR

26 (b) WHEN, AFTER A HEARING HELD WITHIN NINETY-SIX HOURS OF
27 ARREST AND UPON REASONABLE NOTICE, THE COURT FINDS THAT THE

1 PROOF IS EVIDENT OR THE PRESUMPTION IS GREAT AS TO THE CRIME
2 ALLEGED TO HAVE BEEN COMMITTED AND FINDS THAT THE PUBLIC WOULD
3 BE PLACED IN SIGNIFICANT PERIL IF THE ACCUSED WERE RELEASED ON BAIL
4 AND SUCH PERSON IS ACCUSED IN ANY OF THE FOLLOWING CASES:

5 (I) A CRIME OF VIOLENCE ALLEGED TO HAVE BEEN COMMITTED
6 WHILE ON PROBATION OR PAROLE RESULTING FROM THE CONVICTION OF A
7 CRIME OF VIOLENCE;

8 (II) A CRIME OF VIOLENCE ALLEGED TO HAVE BEEN COMMITTED
9 WHILE ON BAIL PENDING THE DISPOSITION OF A PREVIOUS CRIME OF
10 VIOLENCE CHARGE FOR WHICH PROBABLE CAUSE HAS BEEN FOUND;

11 (III) A CRIME OF VIOLENCE ALLEGED TO HAVE BEEN COMMITTED
12 AFTER TWO PREVIOUS FELONY CONVICTIONS, OR ONE SUCH PREVIOUS
13 FELONY CONVICTION IF SUCH CONVICTION WAS FOR A CRIME OF VIOLENCE,
14 UPON CHARGES SEPARATELY BROUGHT AND TRIED UNDER THE LAWS OF
15 THIS STATE OR UNDER THE LAWS OF ANY OTHER STATE, THE UNITED
16 STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED
17 STATES WHICH, IF COMMITTED IN THIS STATE, WOULD BE A FELONY;

18 (IV) A CRIME OF POSSESSION OF A WEAPON BY A PREVIOUS
19 OFFENDER ALLEGED TO HAVE BEEN COMMITTED IN VIOLATION OF SECTION
20 18-12-108 (2) (b), (2) (c), (4) (b), (4) (c), OR (5), C.R.S.; OR

21 (c) WHEN A PERSON HAS BEEN CONVICTED OF A CRIME OF
22 VIOLENCE OR A CRIME OF POSSESSION OF A WEAPON BY A PREVIOUS
23 OFFENDER, AS DESCRIBED IN SECTION 18-12-108 (2) (b), (2) (c), (4) (b),
24 (4) (c), OR (5), C.R.S., AT THE TRIAL COURT LEVEL AND SUCH PERSON IS
25 APPEALING SUCH CONVICTION OR AWAITING SENTENCING FOR SUCH
26 CONVICTION AND THE COURT FINDS THAT THE PUBLIC WOULD BE PLACED
27 IN SIGNIFICANT PERIL IF THE CONVICTED PERSON WERE RELEASED ON BAIL.

1 (2) FOR PURPOSES OF THIS SECTION, "CRIME OF VIOLENCE" SHALL
2 HAVE THE SAME MEANING AS SET FORTH IN SECTION 18-1.3-406(2), C.R.S.

3 (3) IN ANY CAPITAL CASE, THE DEFENDANT MAY MAKE A WRITTEN
4 MOTION FOR ADMISSION TO BAIL UPON THE GROUND THAT THE PROOF IS
5 NOT EVIDENT OR THAT PRESUMPTION IS NOT GREAT, AND THE COURT
6 SHALL PROMPTLY CONDUCT A HEARING UPON SUCH MOTION. AT SUCH
7 HEARING, THE BURDEN SHALL BE UPON THE PEOPLE TO ESTABLISH THAT
8 THE PROOF IS EVIDENT OR THAT THE PRESUMPTION IS GREAT. THE COURT
9 MAY COMBINE IN A SINGLE HEARING THE QUESTIONS AS TO WHETHER THE
10 PROOF IS EVIDENT OR THE PRESUMPTION GREAT WITH THE DETERMINATION
11 OF THE EXISTENCE OF PROBABLE CAUSE TO BELIEVE THAT THE DEFENDANT
12 COMMITTED THE CRIME CHARGED.

13 (4) EXCEPT IN THE CASE OF A CAPITAL OFFENSE, IF A PERSON IS
14 DENIED BAIL UNDER THIS SECTION, THE TRIAL OF THE PERSON SHALL BE
15 COMMENCED NOT MORE THAN NINETY-ONE DAYS AFTER THE DATE ON
16 WHICH BAIL IS DENIED. IF THE TRIAL IS NOT COMMENCED WITHIN
17 NINETY-ONE DAYS AND THE DELAY IS NOT ATTRIBUTABLE TO THE
18 DEFENSE, THE COURT SHALL IMMEDIATELY SCHEDULE A BAIL HEARING
19 AND SHALL SET THE AMOUNT OF THE BAIL FOR THE PERSON.

20 (5) WHEN A PERSON IS ARRESTED FOR A CRIME OF VIOLENCE, AS
21 DEFINED IN SECTION 16-1-104 (8.5), OR A CRIMINAL OFFENSE ALLEGING
22 THE USE OR POSSESSION OF A DEADLY WEAPON OR THE CAUSING OF BODILY
23 INJURY TO ANOTHER PERSON, OR A CRIMINAL OFFENSE ALLEGING THE
24 POSSESSION OF A WEAPON BY A PREVIOUS OFFENDER, AS DESCRIBED IN
25 SECTION 18-12-108 (2) (b), (2) (c), (4) (b), (4) (c), OR (5), C.R.S., AND
26 SUCH PERSON IS ON PAROLE, THE LAW ENFORCEMENT AGENCY MAKING
27 THE ARREST SHALL NOTIFY THE DEPARTMENT OF CORRECTIONS WITHIN

1 TWENTY-FOUR HOURS. THE PERSON SO ARRESTED SHALL NOT BE ELIGIBLE
2 FOR BAIL TO BE SET UNTIL AT LEAST SEVENTY-TWO HOURS FROM THE TIME
3 OF HIS OR HER ARREST HAS PASSED.

4 **16-4-102. Right to bail - before conviction.** (1) ANY PERSON
5 WHO IS IN CUSTODY, AND FOR WHOM THE COURT HAS NOT SET BOND AND
6 CONDITIONS OF RELEASE PURSUANT TO THE APPLICABLE RULE OF
7 CRIMINAL PROCEDURE, AND WHO IS NOT SUBJECT TO THE PROVISIONS OF
8 SECTION 16-4-101 (5), HAS THE RIGHT TO A HEARING TO DETERMINE BOND
9 AND CONDITIONS OF RELEASE. A PERSON IN CUSTODY MAY ALSO REQUEST
10 A HEARING SO THAT BOND AND CONDITIONS OF RELEASE CAN BE SET.
11 UPON RECEIVING THE REQUEST, THE JUDGE SHALL NOTIFY THE DISTRICT
12 ATTORNEY IMMEDIATELY OF THE ARRESTED PERSON'S REQUEST, AND THE
13 DISTRICT ATTORNEY SHALL HAVE THE RIGHT TO ATTEND AND ADVISE THE
14 COURT OF MATTERS PERTINENT TO THE BOND AND CONDITIONS OF
15 RELEASE TO BE SET. THE JUDGE SHALL ALSO ORDER THE APPROPRIATE LAW
16 ENFORCEMENT AGENCY HAVING CUSTODY OF THE PRISONER TO BRING HIM
17 OR HER BEFORE THE COURT FORTHWITH, AND THE JUDGE SHALL SET BOND
18 AND CONDITIONS OF RELEASE IF THE OFFENSE FOR WHICH THE PERSON WAS
19 ARRESTED IS BAILABLE. IT SHALL NOT BE A PREREQUISITE TO BAIL THAT A
20 CRIMINAL CHARGE OF ANY KIND HAS BEEN FILED.

21 (2) THE COURT SHALL IMPLEMENT EVIDENCE-BASED
22 DECISION-MAKING PRACTICES AS DEFINED IN SECTION 16-1-104 (9.5), TO
23 THE EXTENT PRACTICABLE AND AVAILABLE IN THE JURISDICTION,
24 THROUGH THE USE OF AN EMPIRICALLY DEVELOPED RISK ASSESSMENT
25 INSTRUMENT DESIGNED TO IMPROVE PRETRIAL RELEASE DECISIONS BY
26 PROVIDING TO THE COURT INFORMATION THAT CLASSIFIES A PERSON IN
27 CUSTODY BASED UPON THE PREDICTED LEVEL OF RISK OF PRETRIAL

1 FAILURE.

2 **16-4-103. Setting and selection of bond - criteria.** (1) AT THE
3 FIRST APPEARANCE OF A PERSON IN CUSTODY BEFORE A COURT OF RECORD,
4 THE COURT SHALL DETERMINE THE TYPE OF BOND AND CONDITIONS OF
5 RELEASE UNLESS THE PERSON IS SUBJECT TO THE PROVISIONS OF SECTION
6 16-4-101.

7 (2) IF AN INDICTMENT, INFORMATION, OR COMPLAINT HAS BEEN
8 FILED AND THE TYPE OF BOND AND CONDITIONS OF RELEASE HAVE BEEN
9 FIXED UPON RETURN OF THE INDICTMENT OR FILING OF THE INFORMATION
10 OR COMPLAINT, THE COURT SHALL REVIEW THE PROPRIETY OF THE TYPE OF
11 BOND AND CONDITIONS OF RELEASE UPON FIRST APPEARANCE OF A PERSON
12 IN CUSTODY.

13 (3) THE TYPE OF BOND AND CONDITIONS OF RELEASE SHALL BE
14 SUFFICIENT TO REASONABLY ENSURE THE APPEARANCE OF THE PERSON AS
15 REQUIRED AND TO PROTECT THE SAFETY OF ANY PERSON OR THE
16 COMMUNITY, TAKING INTO CONSIDERATION THE INDIVIDUAL
17 CHARACTERISTICS OF EACH PERSON IN CUSTODY, INCLUDING THE PERSON'S
18 FINANCIAL CONDITION.

19 (4) WHEN THE TYPE OF BOND AND CONDITIONS OF RELEASE ARE
20 DETERMINED BY THE COURT, THE COURT SHALL:

21 (a) PRESUME THAT ALL PERSONS IN CUSTODY ARE ELIGIBLE FOR
22 RELEASE ON BOND WITH THE APPROPRIATE AND LEAST-RESTRICTIVE
23 CONDITIONS UNLESS A PERSON IS OTHERWISE INELIGIBLE FOR RELEASE
24 SUBJECT TO THE PROVISIONS OF SECTION 16-4-101 AND SECTION 19 OF
25 ARTICLE II OF THE COLORADO CONSTITUTION;

26 (b) LIMIT THE USE OF BOND SCHEDULES AND MONETARY
27 CONDITIONS THAT ARE SOLELY BASED UPON THE LEVEL OF THE OFFENSE

1 WITHOUT CONSIDERATION OF THE INDIVIDUALIZED RISK AND
2 CIRCUMSTANCES OF A PERSON IN CUSTODY AND ALL OTHER RELEVANT
3 CRITERIA; AND

4 (c) CONSIDER DIFFERENT METHODS AND LEVELS OF
5 COMMUNITY-BASED SUPERVISION AS CONDITIONS OF PRETRIAL RELEASE
6 AS AN ALTERNATIVE TO MONETARY CONDITIONS OF RELEASE IN ORDER TO
7 DECREASE UNNECESSARY PRETRIAL INCARCERATION.

8 (5) THE COURT MAY ALSO CONSIDER THE FOLLOWING CRITERIA AS
9 APPROPRIATE AND RELEVANT IN MAKING A DETERMINATION OF THE TYPE
10 OF BOND AND CONDITIONS OF RELEASE:

11 (a) THE EMPLOYMENT STATUS AND HISTORY OF THE PERSON IN
12 CUSTODY;

13 (b) THE NATURE AND EXTENT OF FAMILY RELATIONSHIPS OF THE
14 PERSON IN CUSTODY;

15 (c) PAST AND PRESENT RESIDENCES OF THE PERSON IN CUSTODY;

16 (d) THE CHARACTER AND REPUTATION OF THE PERSON IN
17 CUSTODY;

18 (e) IDENTITY OF PERSONS WHO AGREE TO ASSIST THE PERSON IN
19 CUSTODY IN ATTENDING COURT AT THE PROPER TIME;

20 (f) THE LIKELY SENTENCE, CONSIDERING THE NATURE AND THE
21 OFFENSE PRESENTLY CHARGED;

22 (g) THE PRIOR CRIMINAL RECORD, IF ANY, OF THE PERSON IN
23 CUSTODY AND ANY PRIOR FAILURES TO APPEAR FOR COURT;

24 (h) ANY FACTS INDICATING THE POSSIBILITY OF VIOLATIONS OF
25 THE LAW IF THE PERSON IN CUSTODY IS RELEASED WITHOUT CERTAIN
26 CONDITIONS OF RELEASE;

27 (i) ANY FACTS INDICATING THAT THE DEFENDANT IS LIKELY TO

1 INTIMIDATE OR HARASS POSSIBLE WITNESSES; AND

2 (j) ANY OTHER FACTS TENDING TO INDICATE THAT THE PERSON IN
3 CUSTODY HAS STRONG TIES TO THE COMMUNITY AND IS NOT LIKELY TO
4 FLEE THE JURISDICTION.

5 (6) WHEN A PERSON IS CHARGED WITH AN OFFENSE PUNISHABLE
6 BY FINE ONLY, ANY MONETARY CONDITION OF RELEASE SHALL NOT
7 EXCEED THE AMOUNT OF THE MAXIMUM FINE PENALTY.

8 **16-4-104. Types of bond set by the court.** (1) THE COURT SHALL
9 DETERMINE, AFTER CONSIDERATION OF ALL RELEVANT CRITERIA, WHICH
10 OF THE FOLLOWING TYPES OF BOND IS APPROPRIATE FOR THE PRETRIAL
11 RELEASE OF A PERSON IN CUSTODY, SUBJECT TO THE RELEVANT
12 STATUTORY CONDITIONS OF RELEASE LISTED IN SECTION 16-4-105. THE
13 PERSON MAY BE RELEASED UPON EXECUTION OF:

14 (a) AN UNSECURED PERSONAL RECOGNIZANCE BOND IN AN
15 AMOUNT SPECIFIED BY THE COURT. THE COURT MAY REQUIRE ADDITIONAL
16 OBLIGORS ON THE BOND AS A CONDITION OF THE BOND.

17 (b) AN UNSECURED PERSONAL RECOGNIZANCE BOND WITH
18 ADDITIONAL NON-MONETARY CONDITIONS OF RELEASE DESIGNED
19 SPECIFICALLY TO REASONABLY ENSURE THE APPEARANCE OF THE PERSON
20 IN COURT AND THE SAFETY OF ANY PERSON OR PERSONS OR THE
21 COMMUNITY;

22 (c) A BOND WITH SECURED MONETARY CONDITIONS WHEN IT IS
23 DETERMINED THAT RELEASE ON AN UNSECURED PERSONAL RECOGNIZANCE
24 BOND WITH ADDITIONAL CONDITIONS BUT WITHOUT MONETARY
25 CONDITIONS DOES NOT REASONABLY ENSURE THE APPEARANCE OF THE
26 PERSON IN COURT OR THE SAFETY OF ANY PERSON OR PERSONS OR THE
27 COMMUNITY. THE FINANCIAL CONDITIONS SHALL STATE AN AMOUNT OF

1 MONEY THAT THE PERSON MUST POST WITH THE COURT IN ORDER FOR THE
2 PERSON TO BE RELEASED. THE PERSON MAY BE RELEASED FROM CUSTODY
3 UPON EXECUTION OF BOND IN THE FULL AMOUNT OF MONEY TO BE
4 SECURED IN ANY ONE OF THE FOLLOWING WAYS:

5 (I) BY A DEPOSIT WITH THE CLERK OF THE COURT OF AN AMOUNT
6 OF CASH EQUAL TO THE REQUIRED SECURITY;

7 (II) BY REAL ESTATE SITUATED IN THIS STATE WITH
8 UNENCUMBERED EQUITY NOT EXEMPT FROM EXECUTION OWNED BY THE
9 ACCUSED OR ANY OTHER PERSON ACTING AS SURETY ON THE BOND, WHICH
10 UNENCUMBERED EQUITY SHALL BE AT LEAST ONE AND ONE-HALF THE
11 AMOUNT OF THE SECURITY SET IN THE BOND; OR

12 (III) BY SURETIES WORTH AT LEAST ONE AND ONE-HALF OF THE
13 SECURITY SET IN THE BOND OR BY A BAIL BONDING AGENT OR A CASH
14 BONDING AGENT QUALIFIED TO WRITE BAIL BONDS PURSUANT TO ARTICLE
15 23 OF TITLE 10, C.R.S.

16 (d) A BOND WITH SECURED REAL ESTATE CONDITIONS WHEN IT IS
17 DETERMINED THAT RELEASE ON AN UNSECURED PERSONAL RECOGNIZANCE
18 BOND WITHOUT MONETARY CONDITIONS WILL NOT REASONABLY ENSURE
19 THE APPEARANCE OF THE PERSON IN COURT OR THE SAFETY OF ANY
20 PERSON OR PERSONS OR THE COMMUNITY. FOR A BOND SECURED BY REAL
21 ESTATE, THE BOND SHALL NOT BE ACCEPTED BY THE CLERK OF THE COURT
22 UNLESS THE RECORD OWNER OF SUCH PROPERTY PRESENTS TO THE CLERK
23 OF THE COURT THE ORIGINAL DEED OF TRUST AS SET FORTH IN
24 SUBPARAGRAPH (IV) OF THIS PARAGRAPH (d) AND THE APPLICABLE
25 RECORDING FEE. UPON RECEIPT OF THE DEED OF TRUST AND FEE, THE
26 CLERK OF THE COURT SHALL RECORD THE DEED OF TRUST WITH THE CLERK
27 AND RECORDER FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

1 FOR A BOND SECURED BY REAL ESTATE, THE AMOUNT OF THE OWNER'S
2 UNENCUMBERED EQUITY SHALL BE DETERMINED BY DEDUCTING THE
3 AMOUNT OF ALL ENCUMBRANCES LISTED IN THE OWNER AND
4 ENCUMBRANCES CERTIFICATE FROM THE ACTUAL VALUE OF SUCH REAL
5 ESTATE AS SHOWN ON THE CURRENT NOTICE OF VALUATION. THE OWNER
6 OF THE REAL ESTATE SHALL FILE WITH THE BOND THE FOLLOWING, WHICH
7 SHALL CONSTITUTE A MATERIAL PART OF THE BOND:

8 (I) THE CURRENT NOTICE OF VALUATION FOR SUCH REAL ESTATE
9 PREPARED BY THE COUNTY ASSESSOR PURSUANT TO SECTION 39-5-121,
10 C.R.S.; AND

11 (II) EVIDENCE OF TITLE ISSUED BY A TITLE INSURANCE COMPANY
12 OR AGENT LICENSED PURSUANT TO ARTICLE 11 OF TITLE 10, C.R.S.,
13 WITHIN THIRTY-FIVE DAYS AFTER THE DATE UPON WHICH THE BOND IS
14 FILED; AND

15 (III) A SWORN STATEMENT BY THE OWNER OF THE REAL ESTATE
16 THAT THE REAL ESTATE IS SECURITY FOR THE COMPLIANCE BY THE
17 ACCUSED WITH THE PRIMARY CONDITION OF THE BOND; AND

18 (IV) A DEED OF TRUST TO THE PUBLIC TRUSTEE OF THE COUNTY IN
19 WHICH THE REAL ESTATE IS LOCATED THAT IS EXECUTED AND
20 ACKNOWLEDGED BY ALL RECORD OWNERS OF THE REAL ESTATE. THE DEED
21 OF TRUST SHALL NAME THE CLERK OF THE COURT APPROVING THE BOND
22 AS BENEFICIARY. THE DEED OF TRUST SHALL SECURE AN AMOUNT EQUAL
23 TO ONE AND ONE-HALF TIMES THE AMOUNT OF THE BOND.

24 (2) UNLESS THE DISTRICT ATTORNEY CONSENTS OR UNLESS THE
25 COURT IMPOSES CERTAIN ADDITIONAL INDIVIDUALIZED CONDITIONS OF
26 RELEASE AS DESCRIBED IN SECTION 16-4-105, A PERSON MUST NOT BE
27 RELEASED ON AN UNSECURED PERSONAL RECOGNIZANCE BOND PURSUANT

1 TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION UNDER THE
2 FOLLOWING CIRCUMSTANCES:

3 (a) THE PERSON IS PRESENTLY FREE ON ANOTHER BOND OF ANY
4 KIND IN ANOTHER CRIMINAL ACTION INVOLVING A FELONY OR A CLASS 1
5 MISDEMEANOR;

6 (b) THE PERSON HAS A RECORD OF CONVICTION OF A CLASS 1
7 MISDEMEANOR WITHIN TWO YEARS OR A FELONY WITHIN FIVE YEARS,
8 PRIOR TO THE BAIL HEARING; OR

9 (c) THE PERSON HAS WILLFULLY FAILED TO APPEAR ON BOND IN
10 ANY CASE INVOLVING A FELONY OR A CLASS 1 MISDEMEANOR CHARGE IN
11 THE PRECEDING FIVE YEARS.

12 (3) A PERSON MAY NOT BE RELEASED ON AN UNSECURED
13 PERSONAL RECOGNIZANCE BOND IF, AT THE TIME OF SUCH APPLICATION,
14 THE PERSON IS PRESENTLY ON RELEASE UNDER A SURETY BOND FOR
15 FELONY OR CLASS 1 MISDEMEANOR CHARGES UNLESS THE SURETY
16 THEREON IS NOTIFIED AND AFFORDED AN OPPORTUNITY TO SURRENDER
17 THE PERSON INTO CUSTODY ON SUCH TERMS AS THE COURT DEEMS JUST
18 UNDER THE PROVISIONS OF SECTION 16-4-108.

19 (4) BECAUSE OF THE DANGER POSED TO ANY PERSON AND THE
20 COMMUNITY, A PERSON WHO IS ARRESTED FOR AN OFFENSE UNDER
21 SECTION 42-4-1301 (1) OR (2) (a), C.R.S., MAY NOT ATTEND A BAIL
22 HEARING UNTIL THE PERSON IS NO LONGER INTOXICATED OR UNDER THE
23 INFLUENCE OF DRUGS. THE PERSON SHALL BE HELD IN CUSTODY UNTIL THE
24 PERSON MAY SAFELY ATTEND SUCH HEARING.

25 **16-4-105. Conditions of release on bond.** (1) FOR EACH BOND,
26 THE COURT SHALL REQUIRE THAT THE RELEASED PERSON APPEAR TO
27 ANSWER THE CHARGE AGAINST THE PERSON AT A PLACE AND UPON A DATE

1 CERTAIN AND AT ANY PLACE OR UPON ANY DATE TO WHICH THE
2 PROCEEDING IS TRANSFERRED OR CONTINUED. THIS CONDITION IS THE
3 ONLY CONDITION FOR WHICH A BREACH OF SURETY OR SECURITY ON THE
4 BAIL BOND MAY BE SUBJECT TO FORFEITURE.

5 (2) FOR A PERSON WHO HAS BEEN ARRESTED FOR A FELONY
6 OFFENSE, THE COURT SHALL REQUIRE AS A CONDITION OF A BOND THAT
7 THE PERSON EXECUTE A WAIVER OF EXTRADITION STATING THE PERSON
8 CONSENTS TO EXTRADITION TO THIS STATE AND WAIVES ALL FORMAL
9 PROCEDURES INCIDENTAL TO EXTRADITION PROCEEDINGS IN THE EVENT
10 THAT HE OR SHE IS ARRESTED IN ANOTHER STATE WHILE AT LIBERTY ON
11 SUCH BAIL BOND AND ACKNOWLEDGING THAT HE OR SHE SHALL NOT BE
12 ADMITTED TO BAIL IN ANY OTHER STATE PENDING EXTRADITION TO THIS
13 STATE.

14 (3) ADDITIONAL CONDITIONS OF EVERY BOND IS THAT THE
15 RELEASED PERSON SHALL NOT COMMIT ANY FELONY WHILE FREE ON SUCH
16 A BAIL BOND, AND THE COURT IN WHICH THE ACTION IS PENDING HAS THE
17 POWER TO REVOKE THE RELEASE OF THE PERSON, TO CHANGE ANY BOND
18 CONDITION, INCLUDING THE AMOUNT OF ANY MONETARY CONDITION IF IT
19 IS SHOWN THAT A COMPETENT COURT HAS FOUND PROBABLE CAUSE TO
20 BELIEVE THAT THE DEFENDANT HAS COMMITTED A FELONY WHILE
21 RELEASED, PENDING THE RESOLUTION OF A PRIOR FELONY CHARGE.

22 (4) AN ADDITIONAL CONDITION OF EVERY BOND IN CASES OF
23 DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., IS
24 THAT THE RELEASED PERSON ACKNOWLEDGE THE PROTECTION ORDER AS
25 PROVIDED IN SECTION 18-1-1001 (5), C.R.S.

26 (5) AN ADDITIONAL CONDITION OF EVERY BOND IN A CASE OF AN
27 OFFENSE UNDER SECTION 42-2-138 (1) (d) (I), C.R.S., OF DRIVING WHILE

1 SUCH PERSON'S DRIVER'S LICENSE OR PRIVILEGE TO DRIVE, EITHER AS A
2 RESIDENT OR NONRESIDENT, IS RESTRAINED SOLELY OR PARTIALLY
3 BECAUSE OF A CONVICTION OF A DRIVING OFFENSE PURSUANT TO SECTION
4 42-4-1301 (1) OR (2) (a), C.R.S., IS THAT SUCH PERSON NOT DRIVE ANY
5 MOTOR VEHICLE DURING THE PERIOD OF SUCH DRIVING RESTRAINT.

6 (6) (a) IF A PERSON IS ARRESTED FOR DRIVING UNDER THE
7 INFLUENCE OR DRIVING WHILE ABILITY IMPAIRED, PURSUANT TO SECTION
8 42-4-1301, C.R.S., AND THE PERSON HAS ONE OR MORE PREVIOUS
9 CONVICTIONS FOR AN OFFENSE IN SECTION 42-4-1301, C.R.S., OR ONE OR
10 MORE CONVICTIONS IN ANY OTHER JURISDICTION THAT WOULD
11 CONSTITUTE A VIOLATION OF SECTION 42-4-1301, C.R.S., AS A CONDITION
12 OF ANY BOND, THE COURT SHALL ORDER THAT THE PERSON ABSTAIN FROM
13 THE USE OF ALCOHOL OR ILLEGAL DRUGS, AND SUCH ABSTINENCE SHALL
14 BE MONITORED.

15 (b) A PERSON SEEKING RELIEF FROM ANY OF THE CONDITIONS
16 IMPOSED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL
17 FILE A MOTION WITH THE COURT, AND THE COURT SHALL CONDUCT A
18 HEARING UPON THE MOTION. THE COURT SHALL CONSIDER WHETHER THE
19 CONDITION FROM WHICH THE PERSON IS SEEKING RELIEF IS IN THE
20 INTEREST OF JUSTICE AND WHETHER PUBLIC SAFETY WOULD BE
21 ENDANGERED IF THE CONDITION WERE NOT ENFORCED. WHEN
22 DETERMINING WHETHER TO GRANT RELIEF PURSUANT TO THIS PARAGRAPH
23 (b), THE COURT SHALL CONSIDER WHETHER THE PERSON HAS
24 VOLUNTARILY ENROLLED AND IS PARTICIPATING IN AN APPROPRIATE
25 SUBSTANCE ABUSE TREATMENT PROGRAM.

26 (7) A PERSON MAY BE RELEASED ON A BOND WITH MONETARY
27 CONDITION OF BOND, WHEN APPROPRIATE, AS DESCRIBED IN SECTION

1 16-4-104 (1) (c).

2 (8) IN ADDITION TO THE CONDITIONS SPECIFIED IN THIS SECTION,
3 THE COURT MAY IMPOSE ANY ADDITIONAL CONDITIONS ON THE CONDUCT
4 OF THE PERSON RELEASED THAT WILL ASSIST IN OBTAINING THE
5 APPEARANCE OF THE PERSON IN COURT AND THE SAFETY OF ANY PERSON
6 OR PERSONS AND THE COMMUNITY. THESE CONDITIONS MAY INCLUDE, BUT
7 ARE NOT LIMITED TO, SUPERVISION BY A QUALIFIED PERSON OR
8 ORGANIZATION OR SUPERVISION BY A PRETRIAL SERVICES PROGRAM
9 ESTABLISHED PURSUANT TO SECTION 16-4-106. WHILE UNDER THE
10 SUPERVISION OF A QUALIFIED ORGANIZATION OR PRETRIAL SERVICES
11 PROGRAM, THE CONDITIONS OF RELEASE MAY INCLUDE, BUT ARE NOT
12 LIMITED TO:

- 13 (a) PERIODIC TELEPHONE CONTACT WITH THE PROGRAM;
- 14 (b) PERIODIC OFFICE VISITS BY THE PERSON TO THE PRETRIAL
15 SERVICES PROGRAM OR ORGANIZATION;
- 16 (c) PERIODIC VISITS TO THE PERSON'S HOME BY THE PROGRAM OR
17 ORGANIZATION;
- 18 (d) MENTAL HEALTH OR SUBSTANCE ABUSE TREATMENT FOR THE
19 PERSON, INCLUDING RESIDENTIAL TREATMENT;
- 20 (e) PERIODIC ALCOHOL OR DRUG TESTING OF THE PERSON;
- 21 (f) DOMESTIC VIOLENCE COUNSELING FOR THE PERSON;
- 22 (g) ELECTRONIC OR GLOBAL POSITION MONITORING OF THE
23 PERSON;
- 24 (h) PRETRIAL WORK RELEASE FOR THE PERSON; AND
- 25 (i) OTHER SUPERVISION TECHNIQUES SHOWN BY RESEARCH TO
26 INCREASE COURT APPEARANCE AND PUBLIC SAFETY RATES FOR PERSONS
27 RELEASED ON BOND.

1 **16-4-106. Pretrial services programs.** (1) THE CHIEF JUDGE OF
2 ANY JUDICIAL DISTRICT MAY ORDER A PERSON WHO IS ELIGIBLE FOR BOND
3 OR OTHER PRETRIAL RELEASE TO BE EVALUATED BY A PRETRIAL SERVICES
4 PROGRAM ESTABLISHED PURSUANT TO THIS SECTION, WHICH PROGRAM
5 MUST ADVISE THE COURT ON BONDE ELIGIBILITY AND RECOMMEND RELEASE
6 OPTIONS CONSISTENT WITH THIS SECTION. THE CHIEF JUDGE MAY MAKE
7 SUCH ORDER IN ANY OR ALL OF THE COUNTIES OF THE CHIEF JUDGE'S
8 JUDICIAL DISTRICT.

9 (2) THE CHIEF JUDGE OF ANY JUDICIAL DISTRICT SHALL CONSULT,
10 ON AN ANNUAL BASIS, WITH THE COUNTY OR COUNTIES WITHIN THE
11 JUDICIAL DISTRICT IN AN EFFORT TO SUPPORT AND ENCOURAGE THE
12 DEVELOPMENT BY THE COUNTY OR COUNTIES, TO THE EXTENT
13 PRACTICABLE AND WITHIN AVAILABLE RESOURCES, OF PRETRIAL SERVICES
14 PROGRAMS THAT SUPPORT THE WORK OF THE COURT AND EVIDENCE-BASED
15 DECISION-MAKING AS DEFINED IN SECTION 16-1-104(9.5) IN DETERMINING
16 THE TYPE OF BOND AND CONDITIONS OF RELEASE.

17 (3) ANY COUNTY OR CITY AND COUNTY SHALL CONSIDER THE
18 DEVELOPMENT OF A PRETRIAL SERVICES PROGRAM, TO THE EXTENT
19 PRACTICABLE AND WITHIN AVAILABLE RESOURCES, AND SHALL CONSULT
20 WITH THE CHIEF JUDGE OF THE JUDICIAL DISTRICT IN AN EFFORT TO
21 ESTABLISH A PRETRIAL SERVICES PROGRAM THAT MAY BE UTILIZED BY THE
22 DISTRICT COURT OF SUCH COUNTY OR CITY AND COUNTY. ANY PRETRIAL
23 SERVICES PROGRAM MUST BE ESTABLISHED PURSUANT TO A PLAN
24 FORMULATED BY A COMMUNITY ADVISORY BOARD CREATED FOR SUCH
25 PURPOSE AND APPOINTED BY THE CHIEF JUDGE OF THE JUDICIAL DISTRICT.
26 MEMBERSHIP ON SUCH COMMUNITY ADVISORY BOARD MUST INCLUDE, BUT
27 SHALL NOT BE LIMITED TO, A REPRESENTATIVE OF A LOCAL LAW

1 ENFORCEMENT AGENCY, A REPRESENTATIVE OF THE DISTRICT ATTORNEY,
2 A REPRESENTATIVE OF THE PUBLIC DEFENDER, AND A REPRESENTATIVE OF
3 THE CITIZENS AT LARGE. THE PLAN FORMULATED BY SUCH COMMUNITY
4 ADVISORY BOARD MUST BE APPROVED BY THE CHIEF JUDGE OF THE
5 JUDICIAL DISTRICT PRIOR TO THE ESTABLISHMENT AND UTILIZATION OF
6 THE PRETRIAL SERVICES PROGRAM. THE REQUIREMENT CONTAINED IN THIS
7 SECTION THAT A PRETRIAL SERVICES PROGRAM BE ESTABLISHED
8 PURSUANT TO A PLAN FORMULATED BY THE COMMUNITY ADVISORY BOARD
9 DOES NOT APPLY TO ANY PRETRIAL SERVICES PROGRAM THAT EXISTED
10 BEFORE MAY 31, 1991.

11 (4) ANY PRETRIAL SERVICES PROGRAM APPROVED PURSUANT TO
12 THIS SECTION MUST MEET THE FOLLOWING CRITERIA:

13 (a) THE PROGRAM MUST ESTABLISH A PROCEDURE FOR THE
14 SCREENING OF PERSONS WHO ARE DETAINED DUE TO AN ARREST FOR THE
15 ALLEGED COMMISSION OF A CRIME SO THAT SUCH INFORMATION MAY BE
16 PROVIDED TO THE JUDGE WHO IS SETTING THE BOND AND CONDITIONS OF
17 RELEASE. THE PROGRAM MUST PROVIDE INFORMATION THAT PROVIDES
18 THE COURT WITH THE ABILITY TO MAKE AN APPROPRIATE INITIAL BOND
19 DECISION THAT IS BASED UPON FACTS RELATING TO THE PERSON'S RISK OF
20 FAILURE TO APPEAR FOR COURT AND RISK OF DANGER TO THE COMMUNITY.

21 (b) THE PROGRAM MUST MAKE ALL REASONABLE ATTEMPTS TO
22 PROVIDE THE COURT WITH SUCH INFORMATION DELINEATED IN THIS
23 SECTION AS IS APPROPRIATE TO EACH INDIVIDUAL PERSON SEEKING
24 RELEASE FROM CUSTODY;

25 (c) THE PROGRAM, IN CONJUNCTION WITH THE COMMUNITY
26 ADVISORY BOARD, MUST MAKE ALL REASONABLE EFFORTS TO COMPLY
27 WITH THE PRINCIPLES OF EVIDENCE-BASED DECISION-MAKING AS DEFINED

1 IN SECTION 16-1-401 (9.5), INCLUDING BUT NOT LIMITED TO THE
2 IMPLEMENTATION OF AN EVIDENCE-BASED PRETRIAL ASSESSMENT TOOL
3 AND A STRUCTURED DECISION-MAKING DESIGN BASED UPON THE PERSON'S
4 CHARGE AND THE RISK ASSESSMENT SCORE;

5 (d) THE PROGRAM MUST WORK WITH ALL APPROPRIATE AGENCIES
6 AND ASSIST WITH ALL EFFORTS TO COMPLY WITH SECTIONS 24-4.1-302.5
7 AND 24-4.1-303, C.R.S.

8 (5) ANY PRETRIAL SERVICES PROGRAM MAY ALSO INCLUDE
9 DIFFERENT METHODS AND LEVELS OF COMMUNITY-BASED SUPERVISION AS
10 A CONDITION OF RELEASE, AND THE PROGRAM MUST USE ESTABLISHED
11 METHODS FOR PERSONS WHO ARE RELEASED PRIOR TO TRIAL IN ORDER TO
12 DECREASE UNNECESSARY PRETRIAL DETENTION. THE PROGRAM MAY
13 INCLUDE, BUT IS NOT LIMITED TO, ANY OF THE CRITERIA AS OUTLINED IN
14 SECTION 16-4-105 (8) AS CONDITIONS FOR PRETRIAL RELEASE.

15 (6) COMMENCING JULY 1, 2012, EACH PRETRIAL SERVICES
16 PROGRAM ESTABLISHED PURSUANT TO THIS SECTION SHALL PROVIDE AN
17 ANNUAL REPORT TO THE JUDICIAL DEPARTMENT NO LATER THAN
18 NOVEMBER 1 OF EACH YEAR, REGARDLESS OF WHETHER THE PROGRAM
19 EXISTED PRIOR TO MAY 31, 1991. THE JUDICIAL DEPARTMENT SHALL
20 PRESENT AN ANNUAL COMBINED REPORT TO THE HOUSE AND SENATE
21 JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE
22 SENATE, OR ANY SUCCESSOR COMMITTEES, OF THE GENERAL ASSEMBLY.
23 THE REPORT TO THE JUDICIAL DEPARTMENT MUST INCLUDE, BUT IS NOT
24 LIMITED TO, THE FOLLOWING INFORMATION:

25 (a) THE TOTAL NUMBER OF PRETRIAL ASSESSMENTS PERFORMED BY
26 THE PROGRAM AND SUBMITTED TO THE COURT;

27 (b) THE TOTAL NUMBER OF CLOSED CASES BY THE PROGRAM IN

1 WHICH THE PERSON WAS RELEASED FROM CUSTODY AND SUPERVISED BY
2 THE PROGRAM;

3 (c) THE TOTAL NUMBER OF CLOSED CASES IN WHICH THE PERSON
4 WAS RELEASED FROM CUSTODY, WAS SUPERVISED BY THE PROGRAM, AND,
5 WHILE UNDER SUPERVISION, APPEARED FOR ALL SCHEDULED COURT
6 APPEARANCES ON THE CASE;

7 (d) THE TOTAL NUMBER OF CLOSED CASES IN WHICH THE PERSON
8 WAS RELEASED FROM CUSTODY, WAS SUPERVISED BY THE PROGRAM, AND
9 WAS NOT CHARGED WITH A NEW CRIMINAL OFFENSE THAT WAS ALLEGED
10 TO HAVE OCCURRED WHILE UNDER SUPERVISION AND THAT CARRIED THE
11 POSSIBILITY OF A SENTENCE TO JAIL OR IMPRISONMENT;

12 (e) THE TOTAL NUMBER OF CLOSED CASES IN WHICH THE PERSON
13 WAS RELEASED FROM CUSTODY AND WAS SUPERVISED BY THE PROGRAM,
14 AND THE PERSON'S BOND WAS NOT REVOKED BY THE COURT DUE TO A
15 VIOLATION OF ANY OTHER TERMS AND CONDITIONS OF SUPERVISION; AND

16 (f) ANY ADDITIONAL INFORMATION THE JUDICIAL DEPARTMENT
17 MAY REQUEST.

18 (7) FOR THE REPORTS REQUIRED IN SUBSECTION (6) OF THIS
19 SECTION, THE PRETRIAL SERVICES PROGRAM SHALL INCLUDE INFORMATION
20 DETAILING THE NUMBER OF PERSONS RELEASED ON A COMMERCIAL
21 SURETY BOND IN ADDITION TO PRETRIAL SUPERVISION, THE NUMBER OF
22 PERSONS RELEASED ON A CASH, PRIVATE SURETY, OR PROPERTY BOND IN
23 ADDITION TO PRETRIAL SUPERVISION, AND THE NUMBER OF PERSONS
24 RELEASED ON ANY FORM OF A PERSONAL RECOGNIZANCE BOND IN
25 ADDITION TO PRETRIAL SUPERVISION.

26 **16-4-107. Hearing after setting of monetary conditions of**
27 **bond.** IF A PERSON IS IN CUSTODY AND THE COURT IMPOSED A MONETARY

1 BOND FOR RELEASE, AND THE PERSON, AFTER SEVEN DAYS FROM THE
2 SETTING OF THE MONETARY BOND, IS UNABLE TO MEET THE MONETARY
3 OBLIGATIONS OF THE BOND, THE PERSON MAY FILE A WRITTEN MOTION FOR
4 RECONSIDERATION OF THE MONETARY CONDITIONS OF THE BOND. THE
5 PERSON MAY ONLY FILE THE WRITTEN MOTION IF HE OR SHE BELIEVES
6 THAT, UPON PRESENTATION OF EVIDENCE NOT FULLY CONSIDERED BY THE
7 COURT, HE OR SHE IS ENTITLED TO A PERSONAL RECOGNIZANCE BOND OR
8 AN UNSECURED BOND WITH CONDITIONS OF RELEASE OR A CHANGE IN THE
9 MONETARY CONDITIONS OF BOND. THE COURT SHALL PROMPTLY CONDUCT
10 A HEARING ON THIS MOTION FOR RECONSIDERATION, BUT THE HEARING
11 MUST BE HELD WITHIN FOURTEEN DAYS AFTER THE FILING OF THE MOTION.
12 HOWEVER, THE COURT MAY SUMMARILY DENY THE MOTION IF THE COURT
13 FINDS THAT THERE IS NO ADDITIONAL EVIDENCE NOT FULLY CONSIDERED
14 BY THE COURT PRESENTED IN THE WRITTEN MOTION. IN CONSIDERING THE
15 MOTION, THE COURT SHALL CONSIDER THE RESULTS OF ANY EMPIRICALLY
16 DEVELOPED RISK ASSESSMENT INSTRUMENT.

17 **16-4-108. When original bond continued.** ONCE A BOND HAS
18 BEEN EXECUTED AND THE PERSON RELEASED FROM CUSTODY THEREON,
19 WHETHER A CHARGE IS THEN PENDING OR IS THEREAFTER FILED OR
20 TRANSFERRED TO A COURT OF COMPETENT JURISDICTION, THE ORIGINAL
21 BOND SHALL CONTINUE IN EFFECT UNTIL FINAL DISPOSITION OF THE CASE
22 IN THE TRIAL COURT. IF A CHARGE FILED IN THE COUNTY COURT IS
23 DISMISSED AND THE DISTRICT ATTORNEY STATES ON THE RECORD THAT
24 THE CHARGE WILL BE REFILED IN THE DISTRICT COURT OR THAT THE
25 DISMISSAL BY THE COUNTY COURT WILL BE APPEALED TO THE DISTRICT
26 COURT, THE COUNTY COURT BEFORE ENTERING THE DISMISSAL SHALL FIX
27 A RETURN DATE, NOT LATER THAN SIXTY-THREE DAYS THEREAFTER, UPON

1 WHICH THE DEFENDANT MUST APPEAR IN THE DISTRICT COURT AND
2 CONTINUE THE BOND. ANY BOND CONTINUED PURSUANT TO THIS SECTION
3 IS SUBJECT TO THE PROVISIONS OF SECTION 16-4-109.

4 **16-4-109. Reduction or increase of monetary conditions of**
5 **bond - change in type of bond or conditions of bond - definitions.**

6 (1) UPON APPLICATION BY THE DISTRICT ATTORNEY OR THE DEFENDANT,
7 THE COURT BEFORE WHICH THE PROCEEDING IS PENDING MAY INCREASE OR
8 DECREASE THE FINANCIAL CONDITIONS OF BOND, MAY REQUIRE
9 ADDITIONAL SECURITY FOR A BOND, MAY DISPENSE WITH SECURITY
10 THERETOFORE PROVIDED, OR MAY ALTER ANY OTHER CONDITION OF THE
11 BOND.

12 (2) REASONABLE NOTICE OF AN APPLICATION FOR MODIFICATION
13 OF A BOND BY THE DEFENDANT SHALL BE GIVEN TO THE DISTRICT
14 ATTORNEY.

15 (3) REASONABLE NOTICE OF APPLICATION FOR MODIFICATION OF
16 A BOND BY THE DISTRICT ATTORNEY SHALL BE GIVEN TO THE DEFENDANT,
17 EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION.

18 (4) (a) UPON VERIFIED APPLICATION BY THE DISTRICT ATTORNEY
19 OR A BONDING COMMISSIONER STATING FACTS OR CIRCUMSTANCES
20 CONSTITUTING A BREACH OR A THREATENED BREACH OF ANY OF THE
21 CONDITIONS OF THE BOND, THE COURT MAY ISSUE A WARRANT
22 COMMANDING ANY PEACE OFFICER TO BRING THE DEFENDANT WITHOUT
23 UNNECESSARY DELAY BEFORE THE COURT FOR A HEARING ON THE
24 MATTERS SET FORTH IN THE APPLICATION. UPON ISSUANCE OF THE
25 WARRANT, THE BONDING COMMISSIONER SHALL NOTIFY THE BAIL BOND
26 AGENT OF RECORD, IF APPLICABLE. AT THE CONCLUSION OF THE HEARING,
27 THE COURT MAY ENTER AN ORDER AUTHORIZED BY SUBSECTION (1) OF

1 THIS SECTION. IF A BONDING COMMISSIONER FILES AN APPLICATION FOR A
2 HEARING PURSUANT TO THIS SUBSECTION (4), THE BONDING
3 COMMISSIONER SHALL NOTIFY THE DISTRICT ATTORNEY, FOR THE
4 JURISDICTION IN WHICH THE APPLICATION IS MADE, OF THE APPLICATION
5 WITHIN TWENTY-FOUR HOURS FOLLOWING THE FILING OF THE
6 APPLICATION.

7 (b) AS USED IN THIS SUBSECTION (4), "BONDING COMMISSIONER"
8 MEANS A PERSON EMPLOYED BY A PRETRIAL SERVICES PROGRAM AS
9 DESCRIBED IN SECTION 16-4-106 (3), AND SO DESIGNATED AS A BONDING
10 COMMISSIONER BY THE CHIEF OR PRESIDING JUDGE OF THE JUDICIAL
11 DISTRICT.

12 (5) THE DISTRICT ATTORNEY HAS THE RIGHT TO APPEAR AT ALL
13 HEARINGS SEEKING MODIFICATION OF THE TERMS AND CONDITIONS OF
14 BOND AND MAY ADVISE THE COURT ON ALL PERTINENT MATTERS DURING
15 THE HEARING.

16 **16-4-110. Exoneration from bond liability.** (1) ANY PERSON
17 EXECUTING A BAIL BOND AS PRINCIPAL OR AS SURETY SHALL BE
18 EXONERATED AS FOLLOWS:

19 (a) WHEN THE CONDITION OF THE BOND HAS BEEN SATISFIED; OR

20 (b) WHEN THE AMOUNT OF THE FORFEITURE HAS BEEN PAID; OR

21 (c) (I) WHEN THE SURETY APPEARS AND PROVIDES SATISFACTORY
22 EVIDENCE TO THE COURT THAT THE DEFENDANT IS UNABLE TO APPEAR
23 BEFORE THE COURT DUE TO SUCH DEFENDANT'S DEATH OR THE DETENTION
24 OR INCARCERATION OF SUCH DEFENDANT IN A FOREIGN JURISDICTION IF
25 THE DEFENDANT IS INCARCERATED FOR A PERIOD IN EXCESS OF
26 NINETY-ONE DAYS AND THE STATE OF COLORADO HAS REFUSED TO
27 EXTRADITE SUCH DEFENDANT; EXCEPT THAT, IF THE STATE EXTRADITES

1 SUCH DEFENDANT, ALL COSTS ASSOCIATED WITH SUCH EXTRADITION
2 SHALL BE BORNE BY THE SURETY UP TO THE AMOUNT OF THE BOND.

3 (II) FOR THE PURPOSES OF THIS PARAGRAPH (c), "COSTS
4 ASSOCIATED WITH EXTRADITION" SHALL BE CALCULATED AS AND LIMITED
5 TO THE ROUND-TRIP MILEAGE BETWEEN THE COLORADO COURT OF
6 JURISDICTION AND THE LOCATION OF THE DEFENDANT'S INCARCERATION
7 AT THE RATE ALLOWED FOR REIMBURSEMENT PURSUANT TO SECTION
8 24-9-104, C.R.S., UP TO THE AMOUNT OF THE BOND.

9 (d) UPON SURRENDER OF THE DEFENDANT INTO CUSTODY AT ANY
10 TIME BEFORE A JUDGMENT HAS BEEN ENTERED AGAINST THE SURETIES FOR
11 FORFEITURE OF THE BOND, UPON PAYMENT OF ALL COSTS OCCASIONED
12 THEREBY. A SURETY MAY SEIZE AND SURRENDER THE DEFENDANT TO THE
13 SHERIFF OF THE COUNTY WHEREIN THE BOND IS TAKEN, AND IT IS THE
14 DUTY OF THE SHERIFF, ON SUCH SURRENDER AND DELIVERY TO HIM OR HER
15 OF A CERTIFIED COPY OF THE BOND BY WHICH THE SURETY IS BOUND, TO
16 TAKE THE PERSON INTO CUSTODY AND, BY WRITING, ACKNOWLEDGE THE
17 SURRENDER. IF A COMPENSATED SURETY IS EXONERATED BY
18 SURRENDERING A DEFENDANT PRIOR TO THE INITIAL APPEARANCE DATE
19 FIXED IN THE BOND, THE COURT, AFTER A HEARING, MAY REQUIRE THE
20 SURETY TO REFUND PART OR ALL OF THE BOND PREMIUM PAID BY THE
21 DEFENDANT IF NECESSARY TO PREVENT UNJUST ENRICHMENT.

22 (e) AFTER THREE YEARS HAVE ELAPSED FROM THE POSTING OF THE
23 BOND, UNLESS A JUDGMENT HAS BEEN ENTERED AGAINST THE SURETY OR
24 THE PRINCIPAL FOR THE FORFEITURE OF THE BOND, OR UNLESS THE COURT
25 GRANTS AN EXTENSION OF THE THREE-YEAR TIME PERIOD FOR GOOD
26 CAUSE SHOWN, UPON MOTION BY THE PROSECUTING ATTORNEY.

27 (2) IF, WITHIN FOURTEEN DAYS AFTER THE POSTING OF A BOND BY

1 A DEFENDANT, THE TERMS AND CONDITIONS OF SAID BOND ARE CHANGED
2 OR ALTERED EITHER BY ORDER OF COURT OR UPON THE MOTION OF THE
3 DISTRICT ATTORNEY OR THE DEFENDANT, THE COURT, AFTER A HEARING,
4 MAY ORDER A COMPENSATED SURETY TO REFUND A PORTION OF THE
5 PREMIUM PAID BY THE DEFENDANT, IF NECESSARY, TO PREVENT UNJUST
6 ENRICHMENT. IF MORE THAN FOURTEEN DAYS HAVE ELAPSED AFTER
7 POSTING OF A BOND BY A DEFENDANT, THE COURT SHALL NOT ORDER THE
8 REFUND OF ANY PREMIUM.

9 (3) UPON ENTRY OF AN ORDER FOR DEFERRED PROSECUTION OR
10 DEFERRED JUDGMENT AS AUTHORIZED IN SECTIONS 18-1.3-101 AND
11 18-1.3-102, C.R.S., SURETIES UPON ANY BOND GIVEN FOR THE
12 APPEARANCE OF THE DEFENDANT SHALL BE RELEASED FROM LIABILITY ON
13 SUCH BOND.

14 **16-4-111. Disposition of security deposits upon forfeiture or**
15 **termination of bond.** (1) (a) IF A DEFENDANT IS RELEASED UPON DEPOSIT
16 OF CASH IN ANY AMOUNT OR UPON DEPOSIT OF ANY STOCKS OR BONDS AND
17 THE DEFENDANT IS LATER DISCHARGED FROM ALL LIABILITY UNDER THE
18 TERMS OF THE BOND, THE CLERK OF THE COURT SHALL RETURN THE
19 DEPOSIT TO THE PERSON WHO MADE THE DEPOSIT.

20 (b) (I) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
21 THIS SUBSECTION (1), IF THE DEPOSITOR OF THE CASH BOND IS THE
22 DEFENDANT AND THE DEFENDANT OWES COURT COSTS, FEES, FINES,
23 RESTITUTION, OR SURCHARGES AT THE TIME THE DEFENDANT IS
24 DISCHARGED FROM ALL LIABILITY UNDER THE TERMS OF THE BOND, THE
25 COURT MAY APPLY THE DEPOSIT TOWARD ANY AMOUNT OWED BY THE
26 DEFENDANT IN COURT COSTS, FEES, FINES, RESTITUTION, OR SURCHARGES.
27 IF ANY AMOUNT OF THE DEPOSIT REMAINS AFTER PAYING THE

1 DEFENDANT'S OUTSTANDING COURT COSTS, FEES, FINES, RESTITUTION, OR
2 SURCHARGES, THE COURT SHALL RETURN THE REMAINDER OF THE DEPOSIT
3 TO THE DEFENDANT.

4 (II) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
5 THIS SUBSECTION (1), IF THE DEPOSITOR OF THE CASH BOND IS NOT THE
6 DEFENDANT, BUT THE DEFENDANT OWES COURT COSTS, FEES, FINES,
7 RESTITUTION, OR SURCHARGES AT THE TIME THE DEFENDANT IS
8 DISCHARGED FROM ALL LIABILITY UNDER THE TERMS OF THE BOND, THE
9 COURT MAY APPLY THE DEPOSIT TOWARD THE AMOUNT OWED BY THE
10 DEFENDANT IN COURT COSTS, FEES, FINES, RESTITUTION, OR SURCHARGES
11 IF THE DEPOSITOR AGREES IN WRITING TO THE USE OF THE DEPOSIT FOR
12 SUCH PURPOSE. IF ANY AMOUNT OF THE DEPOSIT REMAINS AFTER PAYING
13 THE DEFENDANT'S OUTSTANDING COURT COSTS, FEES, FINES, RESTITUTION,
14 OR SURCHARGES, THE COURT SHALL RETURN THE REMAINDER OF THE
15 DEPOSIT TO THE DEPOSITOR.

16 (2) (a) UPON SATISFACTION OF THE TERMS OF THE BOND, THE
17 CLERK OF THE COURT SHALL EXECUTE, WITHIN FOURTEEN DAYS AFTER
18 SUCH SATISFACTION, A RELEASE OF ANY DEED OF TRUST GIVEN TO SECURE
19 THE BOND AND AN AFFIDAVIT THAT STATES THAT THE OBLIGATION FOR
20 WHICH THE DEED OF TRUST HAD BEEN RECORDED HAS BEEN SATISFIED,
21 EITHER FULLY OR PARTIALLY, AND THAT THE RELEASE OF SUCH DEED OF
22 TRUST MAY BE RECORDED AT THE EXPENSE OF THE RECORD OWNER OF THE
23 PROPERTY DESCRIBED IN SUCH DEED OF TRUST.

24 (b) IF THERE IS A FORFEITURE OF THE BOND PURSUANT TO THIS
25 SECTION, AND IF THE FORFEITURE IS NOT SET ASIDE PURSUANT TO
26 SUBSECTION (4) OF THIS SECTION, THE DEED OF TRUST MAY BE
27 FORECLOSED AS PROVIDED BY LAW.

1 (c) IF THERE IS A FORFEITURE OF THE BOND PURSUANT TO THIS
2 SECTION, BUT THE FORFEITURE IS SET ASIDE PURSUANT TO SUBSECTION (3)
3 OF THIS SECTION, THE CLERK OF THE COURT SHALL EXECUTE A RELEASE OF
4 ANY DEED OF TRUST GIVEN TO SECURE THE BOND AND AN AFFIDAVIT THAT
5 STATES THAT THE OBLIGATION FOR WHICH THE DEED OF TRUST HAD BEEN
6 RECORDED HAS BEEN SATISFIED, EITHER FULLY OR PARTIALLY, AND THAT
7 THE RELEASE OF SUCH DEED OF TRUST MAY BE RECORDED AT THE EXPENSE
8 OF THE RECORD OWNER OF THE REAL ESTATE DESCRIBED IN SUCH DEED OF
9 TRUST.

10 (3) WHERE THE DEFENDANT HAS BEEN RELEASED UPON DEPOSIT OF
11 CASH, STOCKS, BONDS, OR PROPERTY OR UPON A SURETY BOND SECURED
12 BY PROPERTY, IF THE DEFENDANT FAILS TO APPEAR IN ACCORDANCE WITH
13 THE PRIMARY CONDITION OF THE BOND, THE COURT SHALL DECLARE A
14 FORFEITURE. NOTICE OF THE ORDER OF FORFEITURE SHALL BE MAILED BY
15 THE COURT TO THE DEFENDANT, ALL SURETIES, AND ALL DEPOSITORS OR
16 ASSIGNEES OF ANY DEPOSITS OF CASH OR PROPERTY IF SUCH SURETIES,
17 DEPOSITORS, OR ASSIGNEES HAVE DIRECT CONTACT WITH THE COURT, AT
18 THEIR LAST-KNOWN ADDRESSES. SUCH NOTICE SHALL BE SENT WITHIN
19 FOURTEEN DAYS AFTER THE ENTRY OF THE ORDER OF FORFEITURE. IF THE
20 DEFENDANT DOES NOT APPEAR AND SURRENDER TO THE COURT HAVING
21 JURISDICTION WITHIN THIRTY-FIVE DAYS FROM THE DATE OF THE
22 FORFEITURE OR WITHIN THAT PERIOD SATISFY THE COURT THAT
23 APPEARANCE AND SURRENDER BY THE DEFENDANT IS IMPOSSIBLE AND
24 WITHOUT FAULT BY SUCH DEFENDANT, THE COURT MAY ENTER JUDGMENT
25 FOR THE STATE AGAINST THE DEFENDANT FOR THE AMOUNT OF THE BOND
26 AND COSTS OF THE COURT PROCEEDINGS. ANY CASH DEPOSITS MADE WITH
27 THE CLERK OF THE COURT SHALL BE APPLIED TO THE PAYMENT OF COSTS.

1 IF ANY AMOUNT OF SUCH CASH DEPOSIT REMAINS AFTER THE PAYMENT OF
2 COSTS, IT SHALL BE APPLIED TO PAYMENT OF THE JUDGMENT.

3 (4) THE COURT MAY ORDER THAT A FORFEITURE BE SET ASIDE,
4 UPON SUCH CONDITIONS AS THE COURT MAY IMPOSE, IF IT APPEARS THAT
5 JUSTICE SO REQUIRES.

6 (5) IF, WITHIN ONE YEAR AFTER JUDGMENT, THE PERSON WHO
7 EXECUTED THE FORFEITED BOND AS PRINCIPAL OR AS SURETY EFFECTS THE
8 APPREHENSION OR SURRENDER OF THE DEFENDANT TO THE SHERIFF OF THE
9 COUNTY FROM WHICH THE BOND WAS TAKEN OR TO THE COURT WHICH
10 GRANTED THE BOND, THE COURT MAY VACATE THE JUDGMENT AND ORDER
11 A REMISSION LESS NECESSARY AND ACTUAL COSTS OF THE COURT.

12 (6) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO
13 APPEARANCE BONDS WRITTEN BY COMPENSATED SURETIES, AS DEFINED IN
14 SECTION 16-4-114 (2) (c), WHICH BONDS SHALL BE SUBJECT TO THE
15 PROVISIONS OF SECTION 16-4-114.

16 (7) ON AND AFTER JULY 1, 2008, ALL MONEYS COLLECTED FROM
17 PAYMENT TOWARD A JUDGMENT ENTERED FOR THE STATE PURSUANT TO
18 SUBSECTION (2) OF THIS SECTION SHALL BE TRANSMITTED TO THE STATE
19 TREASURER FOR DEPOSIT IN THE JUDICIAL STABILIZATION CASH FUND
20 CREATED IN SECTION 13-32-101 (6), C.R.S.

21 **16-4-112. Enforcement when forfeiture not set aside.** BY
22 ENTERING INTO A BOND, EACH OBLIGOR, WHETHER HE OR SHE IS THE
23 PRINCIPAL OR A SURETY, SUBMITS TO THE JURISDICTION OF THE COURT.
24 HIS OR HER LIABILITY UNDER THE BOND MAY BE ENFORCED, WITHOUT THE
25 NECESSITY OF AN INDEPENDENT ACTION, AS FOLLOWS: THE COURT SHALL
26 ORDER THE ISSUANCE OF A CITATION DIRECTED TO THE OBLIGOR TO SHOW
27 CAUSE, IF ANY THERE BE, WHY JUDGMENT SHOULD NOT BE ENTERED

1 AGAINST HIM OR HER FORTHWITH AND EXECUTION ISSUE THEREON. SAID
2 CITATION MAY BE SERVED PERSONALLY OR BY CERTIFIED MAIL UPON THE
3 OBLIGOR DIRECTED TO THE ADDRESS GIVEN IN THE BOND. HEARING ON THE
4 CITATION SHALL BE HELD NOT LESS THAN TWENTY-ONE DAYS AFTER
5 SERVICE. THE DEFENDANT'S ATTORNEY AND THE PROSECUTING ATTORNEY
6 SHALL BE GIVEN NOTICE OF THE HEARING. AT THE CONCLUSION OF THE
7 HEARING, THE COURT MAY ENTER A JUDGMENT FOR THE STATE AND
8 AGAINST THE OBLIGOR, AND EXECUTION SHALL ISSUE THEREON AS ON
9 OTHER JUDGMENTS. THE DISTRICT ATTORNEY SHALL HAVE EXECUTION
10 ISSUED FORTHWITH UPON THE JUDGMENT AND DELIVER IT TO THE SHERIFF
11 TO BE EXECUTED BY LEVY UPON THE STOCKS, BOND, OR REAL ESTATE
12 WHICH HAS BEEN ACCEPTED AS SECURITY FOR THE BOND.

13 **16-4-113. Type of bond in certain misdemeanor cases.** (1) IN
14 EXERCISING THE DISCRETION MENTIONED IN SECTION 16-4-104, THE JUDGE
15 SHALL RELEASE THE ACCUSED PERSON UPON PERSONAL RECOGNIZANCE IF
16 THE CHARGE IS A CLASS 3 MISDEMEANOR OR A PETTY OFFENSE, OR ANY
17 UNCLASSIFIED OFFENSE FOR A VIOLATION OF WHICH THE MAXIMUM
18 PENALTY DOES NOT EXCEED SIX MONTHS' IMPRISONMENT, AND HE OR SHE
19 SHALL NOT BE REQUIRED TO SUPPLY A SURETY BOND, OR GIVE SECURITY
20 OF ANY KIND FOR HIS OR HER APPEARANCE FOR TRIAL OTHER THAN HIS OR
21 HER PERSONAL RECOGNIZANCE, UNLESS ONE OR MORE OF THE FOLLOWING
22 FACTS ARE FOUND TO BE PRESENT:

23 (a) THE ARRESTED PERSON FAILS TO SUFFICIENTLY IDENTIFY
24 HIMSELF OR HERSELF; OR

25 (b) THE ARRESTED PERSON REFUSES TO SIGN A PERSONAL
26 RECOGNIZANCE; OR

27 (c) THE CONTINUED DETENTION OR POSTING OF A SURETY BOND IS

1 NECESSARY TO PREVENT IMMINENT BODILY HARM TO THE ACCUSED OR TO
2 ANOTHER; OR

3 (d) THE ARRESTED PERSON HAS NO TIES TO THE JURISDICTION OF
4 THE COURT REASONABLY SUFFICIENT TO ASSURE HIS OR HER APPEARANCE,
5 AND THERE IS SUBSTANTIAL LIKELIHOOD THAT HE OR SHE WILL FAIL TO
6 APPEAR FOR TRIAL IF RELEASED UPON HIS OR HER PERSONAL
7 RECOGNIZANCE; OR

8 (e) THE ARRESTED PERSON HAS PREVIOUSLY FAILED TO APPEAR
9 FOR TRIAL FOR AN OFFENSE CONCERNING WHICH HE OR SHE HAD GIVEN HIS
10 WRITTEN PROMISE TO APPEAR; OR

11 (f) THERE IS OUTSTANDING A WARRANT FOR HIS OR HER ARREST ON
12 ANY OTHER CHARGE OR THERE ARE PENDING PROCEEDINGS AGAINST HIM
13 OR HER FOR SUSPENSION OR REVOCATION OF PAROLE OR PROBATION.

14 **16-4-114. Enforcement procedures for compensated sureties**

15 - **definitions.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS,
16 DETERMINES, AND DECLARES THAT THE SIMPLICITY, EFFECTIVENESS, AND
17 UNIFORMITY OF BAIL FORFEITURE PROCEDURES APPLICABLE TO
18 COMPENSATED SURETIES WHO ARE SUBJECT TO THE REGULATORY
19 AUTHORITY OF THE COLORADO DIVISION OF INSURANCE ARE MATTERS OF
20 STATEWIDE CONCERN.

21 (b) IT IS THE INTENT OF THE GENERAL ASSEMBLY IN ADOPTING THIS
22 SECTION TO:

23 (I) ADOPT A BOARD SYSTEM THAT WILL SIMPLIFY AND EXPEDITE
24 BAIL FORFEITURE PROCEDURES BY AUTHORIZING COURTS TO BAR
25 COMPENSATED SURETIES WHO FAIL TO PAY FORFEITURE JUDGMENTS FROM
26 WRITING FURTHER BONDS;

27 (II) MINIMIZE THE NEED FOR DAY-TO-DAY INVOLVEMENT OF THE

1 DIVISION OF INSURANCE IN ROUTINE FORFEITURE ENFORCEMENT; AND

2 (III) REDUCE COURT ADMINISTRATIVE WORKLOAD.

3 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
4 REQUIRES:

5 (a) "BAIL INSURANCE COMPANY" MEANS AN INSURER AS DEFINED
6 IN SECTION 10-1-102 (13), C.R.S., ENGAGED IN THE BUSINESS OF WRITING
7 APPEARANCE BONDS THROUGH BONDING AGENTS, WHICH COMPANY IS
8 SUBJECT TO REGULATION BY THE DIVISION OF INSURANCE IN THE
9 DEPARTMENT OF REGULATORY AGENCIES.

10 (b) "BOARD SYSTEM" MEANS ANY REASONABLE METHOD
11 ESTABLISHED BY A COURT TO PUBLICLY POST OR DISSEMINATE THE NAME
12 OF ANY COMPENSATED SURETY WHO IS PROHIBITED FROM POSTING BAIL
13 BONDS.

14 (c) "COMPENSATED SURETY" MEANS ANY PERSON WHO IS IN THE
15 BUSINESS OF WRITING APPEARANCE BONDS AND WHO IS SUBJECT TO
16 REGULATION BY THE DIVISION OF INSURANCE IN THE DEPARTMENT OF
17 REGULATORY AGENCIES, INCLUDING BONDING AGENTS AND BAIL
18 INSURANCE COMPANIES. NOTHING IN THIS PARAGRAPH (c) AUTHORIZES
19 BAIL INSURANCE COMPANIES TO WRITE APPEARANCE BONDS EXCEPT
20 THROUGH BAIL BONDING AGENTS.

21 (d) "ON THE BOARD" MEANS THAT THE NAME OF A COMPENSATED
22 SURETY HAS BEEN PUBLICLY POSTED OR DISSEMINATED BY A COURT AS
23 BEING INELIGIBLE TO WRITE BAIL BONDS PURSUANT TO PARAGRAPH (e) OR
24 (f) OF SUBSECTION (5) OF THIS SECTION.

25 (3) EACH COURT OF RECORD IN THIS STATE SHALL IMPLEMENT A
26 BOARD SYSTEM FOR THE RECORDING AND DISSEMINATION OF THE NAMES
27 OF THOSE COMPENSATED SURETIES WHO ARE PROHIBITED FROM POSTING

1 BAIL BONDS IN THE STATE DUE TO AN UNPAID JUDGMENT AS SET FORTH IN
2 THIS SECTION.

3 (4) BY ENTERING INTO A BOND, EACH OBLIGOR, INCLUDING THE
4 BOND PRINCIPAL AND COMPENSATED SURETY, SUBMITS TO THE
5 JURISDICTION OF THE COURT AND ACKNOWLEDGES THE APPLICABILITY OF
6 THE FORFEITURE PROCEDURES SET FORTH IN THIS SECTION.

7 (5) LIABILITY OF BOND OBLIGORS ON BONDS ISSUED BY
8 COMPENSATED SURETIES MAY BE ENFORCED, WITHOUT THE NECESSITY OF
9 AN INDEPENDENT ACTION, AS FOLLOWS:

10 (a) IN THE EVENT A DEFENDANT DOES NOT APPEAR BEFORE THE
11 COURT AND IS IN VIOLATION OF THE PRIMARY CONDITION OF AN
12 APPEARANCE BOND, THE COURT MAY DECLARE THE BOND FORFEITED.

13 (b) (I) IF A BOND IS DECLARED FORFEITED BY THE COURT, NOTICE
14 OF THE BAIL FORFEITURE ORDER SHALL BE SERVED ON THE BONDING
15 AGENT BY CERTIFIED MAIL AND ON THE BAIL INSURANCE COMPANY BY
16 REGULAR MAIL WITHIN FOURTEEN DAYS AFTER THE ENTRY OF SAID
17 FORFEITURE. IF THE COMPENSATED SURETY ON THE BOND IS A CASH
18 BONDING AGENT, ONLY THE CASH BONDING AGENT SHALL BE NOTIFIED OF
19 THE FORFEITURE. SERVICE OF NOTICE OF THE BAIL FORFEITURE ON THE
20 DEFENDANT IS NOT REQUIRED.

21 (II) THE NOTICE DESCRIBED IN SUBPARAGRAPH (I) OF THIS
22 PARAGRAPH (b) SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

23 (A) A STATEMENT INTENDED TO INFORM THE COMPENSATED
24 SURETY OF THE ENTRY OF FORFEITURE;

25 (B) AN ADVISEMENT THAT THE COMPENSATED SURETY HAS THE
26 RIGHT TO REQUEST A SHOW CAUSE HEARING PURSUANT TO SUBPARAGRAPH
27 (III) OF THIS PARAGRAPH (b) WITHIN FOURTEEN DAYS AFTER RECEIPT OF

1 NOTICE OF FORFEITURE, BY PROCEDURES SET BY THE COURT; AND

2 (C) AN ADVISEMENT THAT IF THE COMPENSATED SURETY DOES
3 NOT REQUEST A SHOW CAUSE HEARING PURSUANT TO SUBPARAGRAPH (III)
4 OF THIS PARAGRAPH (b), JUDGMENT SHALL BE ENTERED UPON EXPIRATION
5 OF THIRTY-FIVE DAYS FOLLOWING THE ENTRY OF FORFEITURE.

6 (III) A COMPENSATED SURETY, UPON WHOM NOTICE OF A BAIL
7 FORFEITURE ORDER HAS BEEN SERVED, SHALL HAVE FOURTEEN DAYS
8 AFTER RECEIPT OF NOTICE OF SUCH FORFEITURE TO REQUEST A HEARING
9 TO SHOW CAUSE WHY JUDGMENT ON THE FORFEITURE SHOULD NOT BE
10 ENTERED FOR THE STATE AGAINST THE COMPENSATED SURETY. SUCH
11 REQUEST SHALL BE GRANTED BY THE COURT AND A HEARING SHALL BE SET
12 WITHIN THIRTY-FIVE DAYS AFTER ENTRY OF FORFEITURE OR AT THE
13 COURT'S EARLIEST CONVENIENCE. AT THE CONCLUSION OF THE HEARING
14 REQUESTED BY THE COMPENSATED SURETY, IF ANY, THE COURT MAY
15 ENTER JUDGMENT FOR THE STATE AGAINST THE COMPENSATED SURETY, OR
16 THE COURT MAY IN ITS DISCRETION ORDER FURTHER HEARINGS. UPON
17 EXPIRATION OF THIRTY-FIVE DAYS AFTER THE ENTRY OF FORFEITURE, THE
18 COURT SHALL ENTER JUDGMENT FOR THE STATE AGAINST THE
19 COMPENSATED SURETY IF THE COMPENSATED SURETY DID NOT REQUEST
20 WITHIN FOURTEEN DAYS AFTER RECEIPT OF NOTICE OF SUCH FORFEITURE
21 A HEARING TO SHOW CAUSE.

22 (IV) IF SUCH A SHOW CAUSE HEARING WAS TIMELY SET BUT THE
23 HEARING DID NOT OCCUR WITHIN THIRTY-FIVE DAYS AFTER THE ENTRY OF
24 FORFEITURE, ANY ENTRY OF JUDGMENT AT THE CONCLUSION OF THE
25 HEARING AGAINST THE COMPENSATED SURETY SHALL NOT BE VACATED ON
26 THE GROUNDS THAT THE MATTER WAS NOT TIMELY HEARD. IF JUDGMENT
27 IS ENTERED AGAINST A COMPENSATED SURETY UPON THE CONCLUSION OF

1 A REQUESTED SHOW CAUSE HEARING, AND SUCH HEARING DID NOT OCCUR
2 WITHIN THIRTY-FIVE DAYS AFTER THE ENTRY OF FORFEITURE, EXECUTION
3 UPON SAID JUDGMENT SHALL BE AUTOMATICALLY STAYED FOR NO MORE
4 THAN ONE HUNDRED TWENTY-SIX DAYS AFTER ENTRY OF FORFEITURE.

5 (V) (A) IF AT ANY TIME PRIOR TO THE ENTRY OF JUDGMENT, THE
6 DEFENDANT APPEARS IN COURT, EITHER VOLUNTARILY OR IN CUSTODY
7 AFTER SURRENDER OR ARREST, THE COURT SHALL ON ITS OWN MOTION
8 DIRECT THAT THE BAIL FORFEITURE BE SET ASIDE AND THE BOND
9 EXONERATED AT THE TIME THE DEFENDANT FIRST APPEARS IN COURT;
10 EXCEPT THAT, IF THE STATE EXTRADITES SUCH DEFENDANT, ALL
11 NECESSARY AND ACTUAL COSTS ASSOCIATED WITH SUCH EXTRADITION
12 SHALL BE BORNE BY THE SURETY UP TO THE AMOUNT OF THE BOND.

13 (B) IF, AT A TIME PRIOR TO THE ENTRY OF JUDGMENT, THE SURETY
14 PROVIDES PROOF TO THE COURT THAT THE DEFENDANT IS IN CUSTODY IN
15 ANY OTHER JURISDICTION WITHIN THE STATE, THE COURT SHALL ON ITS
16 OWN MOTION DIRECT THAT THE BAIL FORFEITURE BE SET ASIDE AND THE
17 BOND EXONERATED; EXCEPT THAT, IF THE COURT EXTRADITES THE
18 DEFENDANT, ALL NECESSARY AND ACTUAL COSTS ASSOCIATED WITH THE
19 EXTRADITION SHALL BE BORNE BY THE SURETY UP TO THE AMOUNT OF THE
20 BOND. IF THE COURT ELECTS TO EXTRADITE THE DEFENDANT, ANY
21 FORFEITURE WILL BE STAYED UNTIL SUCH TIME THE DEFENDANT APPEARS
22 IN THE COURT WHERE THE BOND RETURNS.

23 (C) A COMPENSATED SURETY SHALL BE EXONERATED FROM
24 LIABILITY UPON THE BOND BY SATISFACTION OF THE BAIL FORFEITURE
25 JUDGMENT, SURRENDER OF THE DEFENDANT, OR ORDER OF THE COURT. IF
26 THE SURETY PROVIDES PROOF TO THE COURT THAT THE DEFENDANT IS IN
27 CUSTODY IN ANY OTHER JURISDICTION WITHIN THE STATE, WITHIN

1 NINETY-ONE DAYS AFTER THE ENTRY OF JUDGMENT, THE COURT SHALL ON
2 ITS OWN MOTION DIRECT THAT THE BAIL FORFEITURE JUDGMENT BE
3 VACATED AND THE BOND EXONERATED; EXCEPT THAT, IF THE COURT
4 EXTRADITES THE DEFENDANT, ALL NECESSARY AND ACTUAL COSTS
5 ASSOCIATED WITH THE EXTRADITION SHALL BE BORNE BY THE SURETY UP
6 TO THE AMOUNT OF THE BOND. IF THE COURT ELECTS TO EXTRADITE THE
7 DEFENDANT, ANY JUDGMENT WILL BE STAYED UNTIL THE TIME THE
8 DEFENDANT APPEARS IN THE COURT WHERE THE BOND RETURNS.

9 (c) EXECUTION UPON SAID BAIL FORFEITURE JUDGMENT SHALL BE
10 AUTOMATICALLY STAYED FOR NINETY-ONE DAYS FROM THE DATE OF
11 ENTRY OF JUDGMENT; EXCEPT THAT, IF JUDGMENT IS ENTERED AGAINST A
12 COMPENSATED SURETY UPON THE CONCLUSION OF A REQUESTED SHOW
13 CAUSE HEARING, AND SUCH HEARING DID NOT OCCUR WITHIN THIRTY-FIVE
14 DAYS AFTER THE ENTRY OF FORFEITURE, THE JUDGMENT SHALL BE
15 AUTOMATICALLY STAYED AS SET FORTH IN SUBPARAGRAPH (IV) OF
16 PARAGRAPH (b) OF THIS SUBSECTION (5).

17 (d) UPON THE EXPIRATION OF THE STAY OF EXECUTION DESCRIBED
18 IN PARAGRAPH (c) OF THIS SUBSECTION (5), THE BAIL FORFEITURE
19 JUDGMENT SHALL BE PAID FORTHWITH BY THE COMPENSATED SURETY, IF
20 NOT PREVIOUSLY PAID, UNLESS THE DEFENDANT APPEARS IN COURT,
21 EITHER VOLUNTARILY OR IN CUSTODY AFTER SURRENDER OR ARREST, OR
22 THE COURT ENTERS AN ORDER GRANTING AN ADDITIONAL STAY OF
23 EXECUTION OR OTHERWISE VACATES THE JUDGMENT.

24 (e) IF A BAIL FORFEITURE JUDGMENT IS NOT PAID ON OR BEFORE
25 THE EXPIRATION DATE OF THE STAY OF EXECUTION DESCRIBED IN
26 PARAGRAPH (c) OF THIS SUBSECTION (5), THE NAME OF THE BONDING
27 AGENT SHALL BE PLACED ON THE BOARD OF THE COURT THAT ENTERED

1 THE JUDGMENT. THE BONDING AGENT SHALL BE PROHIBITED FROM
2 EXECUTING ANY FURTHER BAIL BONDS IN THIS STATE UNTIL THE
3 JUDGMENT GIVING RISE TO PLACEMENT ON THE BOARD IS SATISFIED,
4 VACATED, OR OTHERWISE DISCHARGED BY ORDER OF THE COURT.

5 (f) IF A BAIL FORFEITURE JUDGMENT REMAINS UNPAID FOR
6 THIRTY-FIVE DAYS AFTER THE NAME OF THE BONDING AGENT IS PLACED ON
7 THE BOARD, THE COURT SHALL SEND NOTICE BY CERTIFIED MAIL TO THE
8 BAIL INSURANCE COMPANY FOR WHOM THE BONDING AGENT HAS
9 EXECUTED THE BOND THAT IF SAID JUDGMENT IS NOT PAID WITHIN
10 FOURTEEN DAYS AFTER THE DATE OF MAILING OF SAID NOTICE, THE NAME
11 OF THE BAIL INSURANCE COMPANY SHALL BE PLACED ON THE BOARD AND
12 SUCH COMPANY SHALL BE PROHIBITED FROM EXECUTING ANY FURTHER
13 BAIL BONDS IN THIS STATE UNTIL THE JUDGMENT GIVING RISE TO
14 PLACEMENT ON THE BOARD IS SATISFIED, VACATED, OR OTHERWISE
15 DISCHARGED BY ORDER OF THE COURT.

16 (g) A COMPENSATED SURETY SHALL BE REMOVED FORTHWITH
17 FROM THE BOARD ONLY AFTER EVERY JUDGMENT FOR WHICH THE
18 COMPENSATED SURETY WAS PLACED ON THE BOARD IS SATISFIED,
19 VACATED, OR DISCHARGED OR STAYED BY ENTRY OF AN ADDITIONAL STAY
20 OF EXECUTION. NO COMPENSATED SURETY SHALL BE PLACED ON THE
21 BOARD IN THE ABSENCE OF THE NOTICE REQUIRED BY PARAGRAPH (b) OR
22 (f) OF THIS SUBSECTION (5).

23 (h) THE COURT MAY ORDER THAT A BAIL FORFEITURE JUDGMENT
24 BE VACATED AND SET ASIDE OR THAT EXECUTION THEREON BE STAYED
25 UPON SUCH CONDITIONS AS THE COURT MAY IMPOSE, IF IT APPEARS THAT
26 JUSTICE SO REQUIRES.

27 (i) A COMPENSATED SURETY SHALL BE EXONERATED FROM

1 LIABILITY UPON THE BOND BY SATISFACTION OF THE BAIL FORFEITURE
2 JUDGMENT, SURRENDER OF THE DEFENDANT, OR BY ORDER OF THE COURT.
3 IF THE DEFENDANT APPEARS IN COURT, EITHER VOLUNTARILY OR IN
4 CUSTODY AFTER SURRENDER OR ARREST, WITHIN NINETY-ONE DAYS AFTER
5 THE ENTRY OF JUDGMENT, THE COURT, AT THE TIME THE DEFENDANT FIRST
6 APPEARS IN COURT, SHALL ON ITS OWN MOTION DIRECT THAT THE BAIL
7 FORFEITURE JUDGMENT BE VACATED AND THE BOND EXONERATED;
8 EXCEPT THAT, IF THE STATE EXTRADITES SUCH DEFENDANT, ALL
9 NECESSARY AND ACTUAL COSTS ASSOCIATED WITH SUCH EXTRADITION
10 SHALL BE BORNE BY THE SURETY UP TO THE AMOUNT OF THE BOND.

11 (j) IF, WITHIN ONE YEAR AFTER PAYMENT OF THE BAIL FORFEITURE
12 JUDGMENT, THE COMPENSATED SURETY EFFECTS THE APPREHENSION OR
13 SURRENDER OF THE DEFENDANT AND PROVIDES REASONABLE NOTICE TO
14 THE COURT TO WHICH THE BOND RETURNS THAT THE DEFENDANT IS
15 AVAILABLE FOR EXTRADITION, THE COURT SHALL VACATE THE JUDGMENT
16 AND ORDER A REMISSION OF THE AMOUNT PAID ON THE BOND LESS ANY
17 NECESSARY AND ACTUAL COSTS INCURRED BY THE STATE AND THE
18 SHERIFF WHO HAS ACTUALLY EXTRADITED THE DEFENDANT.

19 (k) BAIL BONDS SHALL BE DEEMED VALID NOTWITHSTANDING THE
20 FACT THAT A BOND MAY HAVE BEEN WRITTEN BY A COMPENSATED SURETY
21 WHO HAS BEEN PLACED ON THE BOARD PURSUANT TO PARAGRAPH (e) OR
22 (f) OF THIS SUBSECTION (5) AND IS OTHERWISE PROHIBITED FROM WRITING
23 BAIL BONDS. THE INELIGIBILITY OF A COMPENSATED SURETY TO WRITE
24 BONDS BECAUSE THE NAME OF THE COMPENSATED SURETY HAS BEEN
25 PLACED ON THE BOARD PURSUANT TO PARAGRAPH (e) OR (f) OF THIS
26 SUBSECTION (5) SHALL NOT BE A DEFENSE TO LIABILITY ON ANY
27 APPEARANCE BOND ACCEPTED BY A COURT.

1 (l) THE AUTOMATIC STAY OF EXECUTION UPON A BAIL FORFEITURE
2 JUDGMENT AS DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION (5)
3 SHALL EXPIRE PURSUANT TO ITS TERMS UNLESS THE DEFENDANT APPEARS
4 AND SURRENDERS TO THE COURT HAVING JURISDICTION OR SATISFIES THE
5 COURT THAT APPEARANCE AND SURRENDER BY THE DEFENDANT WAS
6 IMPOSSIBLE AND WITHOUT FAULT BY SUCH DEFENDANT. THE COURT MAY
7 ORDER THAT A FORFEITURE BE SET ASIDE AND JUDGMENT VACATED AS SET
8 FORTH IN PARAGRAPH (h) OF THIS SUBSECTION (5).

9 (6) A BAIL INSURANCE COMPANY SHALL NOT WRITE BAIL BONDS
10 UNLESS THROUGH A LICENSED BAIL BONDING AGENT.

11 **SECTION 3.** In Colorado Revised Statutes, 16-4-201, **amend** (1)
12 (a) as follows:

13 **16-4-201. Bail after conviction.** (1) (a) After conviction, either
14 before or after sentencing, the defendant may orally, or in writing, move
15 for release on bail pending determination of a motion for a new trial or
16 motion in arrest of judgment or during any stay of execution or pending
17 review by an appellate court, and, except in cases where the defendant has
18 been convicted of a capital offense, the trial court, in its discretion, may
19 continue the bond given for pretrial release, or may release the defendant
20 on ~~increased-bail~~ BOND WITH ADDITIONAL CONDITIONS INCLUDING
21 MONETARY CONDITIONS, or require bond under one or more of the
22 alternatives set forth in section 16-4-104.

23 **SECTION 4.** In Colorado Revised Statutes, 16-4-202, **amend** (1)
24 introductory portion, (1) (h), (1) (i); and **add** (1) (j) as follows:

25 **16-4-202. Appeal bond hearing - factors to be considered.**
26 (1) The court shall consider the following factors in deciding whether or
27 not an appeal bond should be granted and determining ~~the amount of bail~~

1 ~~and~~ the type of bond ~~to be~~ AND CONDITIONS OF RELEASE required:

2 (h) The likelihood that the defendant will commit additional
3 criminal offenses during the pendency of such defendant's appeal; ~~and~~

4 (i) The defendant's likelihood of success on appeal; AND

5 (j) THE RESULT OF ANY EMPIRICALLY DEVELOPED RISK
6 ASSESSMENT INSTRUMENT.

7 **SECTION 5.** In Colorado Revised Statutes, 10-1-211, **amend** (6)
8 as follows:

9 **10-1-211. Protocols for market conduct actions.** (6) Subject to
10 section ~~16-4-108~~ 16-4-110 (1) (c) and (2), C.R.S., a bail premium is
11 earned in its entirety by a compensated surety upon the defendant's
12 release from custody.

13 **SECTION 6.** In Colorado Revised Statutes, 10-2-705, **add** (3.5)
14 as follows:

15 **10-2-705. Bail bond documents - requirements - rules.**

16 (3.5) (a) IF THE BOND IS TO BE SECURED BY REAL ESTATE, THE BAIL
17 BONDING AGENT SHALL PROVIDE THE PROPERTY OWNER WITH A WRITTEN
18 DISCLOSURE STATEMENT IN THE FOLLOWING FORM AT THE TIME AN INITIAL
19 APPLICATION IS FILED:

20 **DISCLOSURE OF LIEN AGAINST REAL PROPERTY**

21 **DO NOT SIGN THIS DOCUMENT UNTIL YOU READ AND**
22 **UNDERSTAND IT! THIS BAIL BOND WILL BE SECURED BY**
23 **REAL PROPERTY YOU OWN OR IN WHICH YOU HAVE AN**
24 **INTEREST. FAILURE TO PAY THE BAIL BOND PREMIUMS**
25 **WHEN DUE OR THE DEFENDANT'S FAILURE TO COMPLY**
26 **WITH THE CONDITIONS OF BAIL COULD RESULT IN THE**
27 **LOSS OF YOUR PROPERTY!**

1 (b) THE DISCLOSURE REQUIRED IN PARAGRAPH (a) OF THIS
2 SUBSECTION (3.5) SHALL BE PRINTED IN FOURTEEN-POINT, BOLD-FACED
3 TYPE EITHER:

4 (I) ON A SEPARATE AND SPECIFIC DOCUMENT ATTACHED TO OR
5 ACCOMPANYING THE APPLICATION; OR

6 (II) IN A CLEAR AND CONSPICUOUS STATEMENT ON THE FACE OF
7 THE APPLICATION.

8 (c) BEFORE A PROPERTY OWNER EXECUTES ANY INSTRUMENT
9 CREATING A LIEN AGAINST REAL PROPERTY, THE BAIL BONDING AGENT
10 SHALL PROVIDE THE PROPERTY OWNER WITH A COMPLETED COPY OF THE
11 INSTRUMENT CREATING THE LIEN AGAINST REAL PROPERTY AND THE
12 DISCLOSURE STATEMENT DESCRIBED IN PARAGRAPH (a) OF THIS
13 SUBSECTION (3.5). IF A BAIL BONDING AGENT FAILS TO COMPLY FULLY
14 WITH THE REQUIREMENTS OF PARAGRAPHS (a) AND (b) OF THIS
15 SUBSECTION (3.5) AND THIS PARAGRAPH (c), ANY INSTRUMENT CREATING
16 A LIEN AGAINST REAL PROPERTY SHALL BE VOIDABLE.

17 (d) THE BONDING AGENT SHALL DELIVER TO THE PROPERTY OWNER
18 A FULLY EXECUTED AND NOTARIZED RECONVEYANCE OF TITLE, A
19 CERTIFICATE OF DISCHARGE, OR A FULL RELEASE OF ANY LIEN AGAINST
20 REAL PROPERTY THAT SECURES PERFORMANCE OF THE CONDITIONS OF A
21 BAIL BOND WITHIN THIRTY-FIVE DAYS AFTER RECEIVING NOTICE THAT THE
22 TIME FOR APPEALING AN ORDER THAT EXONERATED THE BAIL BOND HAS
23 EXPIRED. THE BONDING AGENT SHALL ALSO DELIVER TO THE PROPERTY
24 OWNER THE ORIGINAL CANCELLED NOTE AS EVIDENCE THAT THE
25 INDEBTEDNESS SECURED BY ANY LIEN INSTRUMENT HAS BEEN PAID OR
26 THAT THE PURPOSES OF SAID INSTRUMENT HAVE BEEN FULLY SATISFIED
27 AND THE ORIGINAL DEED OF TRUST, SECURITY AGREEMENT, OR OTHER

1 INSTRUMENT THAT SECURED THE BAIL BOND OBLIGATION. IF A TIMELY
2 NOTICE OF APPEAL IS FILED, THE THIRTY-FIVE-DAY PERIOD SHALL BEGIN
3 ON THE DAY THE APPELLATE COURT'S AFFIRMATION OF THE ORDER
4 BECOMES FINAL. IF THE BONDING AGENT FAILS TO COMPLY WITH THE
5 REQUIREMENTS OF THIS PARAGRAPH (d), THE PROPERTY OWNER MAY
6 PETITION THE DISTRICT COURT TO ISSUE AN ORDER DIRECTING THE CLERK
7 OF SUCH COURT TO EXECUTE A FULL RECONVEYANCE OF TITLE, A
8 CERTIFICATE OF DISCHARGE, OR A FULL RELEASE OF ANY LIEN AGAINST
9 REAL PROPERTY CREATED TO SECURE PERFORMANCE OF THE CONDITIONS
10 OF THE BAIL BOND. THE PETITION SHALL BE VERIFIED AND SHALL ALLEGE
11 FACTS SHOWING THAT THE BONDING AGENT HAS FAILED TO COMPLY WITH
12 THE PROVISIONS OF THIS PARAGRAPH (d).

13 (e) ANY BAIL BONDING AGENT WHO VIOLATES THIS SUBSECTION
14 (3.5) IS LIABLE TO THE PROPERTY OWNER FOR ALL DAMAGES THAT MAY BE
15 SUSTAINED BY REASON OF THE VIOLATION, PLUS STATUTORY DAMAGES IN
16 THE SUM OF THREE HUNDRED DOLLARS. THE PROPERTY OWNER SHALL BE
17 ENTITLED TO RECOVER COURT COSTS AND REASONABLE ATTORNEY FEES,
18 AS DETERMINED BY THE COURT, UPON PREVAILING IN ANY ACTION
19 BROUGHT TO ENFORCE THE PROVISIONS OF THIS SUBSECTION (3.5).

20 **SECTION 7.** In Colorado Revised Statutes, 10-23-101, **amend**
21 (2) as follows:

22 **10-23-101. Definitions.** As used in this article, unless the context
23 otherwise requires:

24 (2) "On the board" means that the name of the person has been
25 publicly posted or disseminated by a court as being ineligible to write bail
26 bonds under section ~~16-4-112~~ 16-4-114 (5) (e) or (5) (f), C.R.S.

27 **SECTION 8.** In Colorado Revised Statutes, 10-23-105, **amend**

1 (1) and (2) as follows:

2 **10-23-105. Qualification bond - forfeiture.** (1) Each
3 cash-bonding agent shall post a cash qualification bond of fifty thousand
4 dollars with the division. The bond must be to the people of the state of
5 Colorado in favor of any court in this state, whether municipal, county,
6 district, or other court, and to the division for the purposes of this section.
7 In the event of a forfeiture of a cash-bonding agent's qualification bond,
8 the division has priority over all other claimants. To comply with this
9 subsection (1), the bond must be conditioned upon full and prompt
10 payment into the court ordering the bond forfeited. Cash-bonding agents
11 shall not issue bonds except in accordance with section ~~16-4-104 (1) (b)~~
12 ~~(HH)~~ 16-4-104 (1) (c) (III), C.R.S. In the event of a qualification bond
13 forfeiture, a cash-bonding agent shall not write new bail bonds until the
14 qualification bond is restored to fifty thousand dollars.

15 (2) Each professional cash-bail agent shall post a cash
16 qualification bond of no less than fifty thousand dollars with the division.
17 The bond shall be to the people of the state of Colorado in favor of any
18 court in this state, whether municipal, county, district, or other court, and
19 to the division for the purposes of this section. A professional cash-bail
20 agent shall not furnish a single bail greater than twice the amount of the
21 bond posted with the division. In the event of a forfeiture of a
22 professional cash-bail agent's qualification bond, the division has priority
23 over all other claimants to the bond. To comply with this subsection (2),
24 the bond must be conditioned upon full and prompt payment into the
25 court ordering the bond forfeited. Professional cash-bail agents shall not
26 issue bonds except in accordance with section ~~16-4-104 (1) (b) (HH)~~
27 16-4-104 (1) (c) (III), C.R.S. In the event of a qualification bond

1 forfeiture, a professional cash-bail agent shall not write new bail bonds
2 until the qualification bond is restored to at least fifty thousand dollars.

3 **SECTION 9.** In Colorado Revised Statutes, 10-23-108, **add** (3.5)
4 as follows:

5 **10-23-108. Bail bond documents - requirements - rules.**

6 (3.5) (a) IF THE BOND IS TO BE SECURED BY REAL ESTATE, THE BAIL
7 BONDING AGENT SHALL PROVIDE THE PROPERTY OWNER WITH A WRITTEN
8 DISCLOSURE STATEMENT IN THE FOLLOWING FORM AT THE TIME AN INITIAL
9 APPLICATION IS FILED:

10 **DISCLOSURE OF LIEN AGAINST REAL PROPERTY**

11 **DO NOT SIGN THIS DOCUMENT UNTIL YOU READ AND**
12 **UNDERSTAND IT! THIS BAIL BOND WILL BE SECURED BY**
13 **REAL PROPERTY YOU OWN OR IN WHICH YOU HAVE AN**
14 **INTEREST. FAILURE TO PAY THE BAIL BOND PREMIUMS**
15 **WHEN DUE OR THE DEFENDANT'S FAILURE TO COMPLY**
16 **WITH THE CONDITIONS OF BAIL COULD RESULT IN THE**
17 **LOSS OF YOUR PROPERTY!**

18 (b) THE DISCLOSURE REQUIRED IN PARAGRAPH (a) OF THIS
19 SUBSECTION (3.5) SHALL BE PRINTED IN FOURTEEN-POINT, BOLD-FACED
20 TYPE EITHER:

21 (I) ON A SEPARATE AND SPECIFIC DOCUMENT ATTACHED TO OR
22 ACCOMPANYING THE APPLICATION; OR

23 (II) IN A CLEAR AND CONSPICUOUS STATEMENT ON THE FACE OF
24 THE APPLICATION.

25 (c) BEFORE A PROPERTY OWNER EXECUTES ANY INSTRUMENT
26 CREATING A LIEN AGAINST REAL PROPERTY, THE BAIL BONDING AGENT
27 SHALL PROVIDE THE PROPERTY OWNER WITH A COMPLETED COPY OF THE

1 INSTRUMENT CREATING THE LIEN AGAINST REAL PROPERTY AND THE
2 DISCLOSURE STATEMENT DESCRIBED IN PARAGRAPH (a) OF THIS
3 SUBSECTION (3.5). IF A BAIL BONDING AGENT FAILS TO COMPLY FULLY
4 WITH THE REQUIREMENTS OF PARAGRAPHS (a) AND (b) OF THIS
5 SUBSECTION (3.5) AND THIS PARAGRAPH (c), ANY INSTRUMENT CREATING
6 A LIEN AGAINST REAL PROPERTY SHALL BE VOIDABLE.

7 (d) THE BONDING AGENT SHALL DELIVER TO THE PROPERTY OWNER
8 A FULLY EXECUTED AND NOTARIZED RECONVEYANCE OF TITLE, A
9 CERTIFICATE OF DISCHARGE, OR A FULL RELEASE OF ANY LIEN AGAINST
10 REAL PROPERTY THAT SECURES PERFORMANCE OF THE CONDITIONS OF A
11 BAIL BOND WITHIN THIRTY-FIVE DAYS AFTER RECEIVING NOTICE THAT THE
12 TIME FOR APPEALING AN ORDER THAT EXONERATED THE BAIL BOND HAS
13 EXPIRED. THE BONDING AGENT SHALL ALSO DELIVER TO THE PROPERTY
14 OWNER THE ORIGINAL CANCELLED NOTE AS EVIDENCE THAT THE
15 INDEBTEDNESS SECURED BY ANY LIEN INSTRUMENT HAS BEEN PAID OR
16 THAT THE PURPOSES OF SAID INSTRUMENT HAVE BEEN FULLY SATISFIED
17 AND THE ORIGINAL DEED OF TRUST, SECURITY AGREEMENT, OR OTHER
18 INSTRUMENT THAT SECURED THE BAIL BOND OBLIGATION. IF A TIMELY
19 NOTICE OF APPEAL IS FILED, THE THIRTY-FIVE-DAY PERIOD SHALL BEGIN
20 ON THE DAY THE APPELLATE COURT'S AFFIRMATION OF THE ORDER
21 BECOMES FINAL. IF THE BONDING AGENT FAILS TO COMPLY WITH THE
22 REQUIREMENTS OF THIS PARAGRAPH (d), THE PROPERTY OWNER MAY
23 PETITION THE DISTRICT COURT TO ISSUE AN ORDER DIRECTING THE CLERK
24 OF SUCH COURT TO EXECUTE A FULL RECONVEYANCE OF TITLE, A
25 CERTIFICATE OF DISCHARGE, OR A FULL RELEASE OF ANY LIEN AGAINST
26 REAL PROPERTY CREATED TO SECURE PERFORMANCE OF THE CONDITIONS
27 OF THE BAIL BOND. THE PETITION SHALL BE VERIFIED AND SHALL ALLEGE

1 FACTS SHOWING THAT THE BONDING AGENT HAS FAILED TO COMPLY WITH
2 THE PROVISIONS OF THIS PARAGRAPH (d).

3 (e) ANY BAIL BONDING AGENT WHO VIOLATES THIS SUBSECTION
4 (3.5) SHALL BE LIABLE TO THE PROPERTY OWNER FOR ALL DAMAGES THAT
5 MAY BE SUSTAINED BY REASON OF THE VIOLATION, PLUS STATUTORY
6 DAMAGES IN THE SUM OF THREE HUNDRED DOLLARS. THE PROPERTY
7 OWNER SHALL BE ENTITLED TO RECOVER COURT COSTS AND REASONABLE
8 ATTORNEY FEES, AS DETERMINED BY THE COURT, UPON PREVAILING IN ANY
9 ACTION BROUGHT TO ENFORCE THE PROVISIONS OF THIS SUBSECTION (3.5).

10 **SECTION 10.** In Colorado Revised Statutes, 18-13-130, **amend**
11 (1) (g) as follows:

12 **18-13-130. Bail bond - prohibited activities - penalties.** (1) It
13 is unlawful for any person who engages in the business of writing bail
14 bonds to engage in any of the following activities related to a bail bond
15 transaction:

16 (g) Post a bail bond in any court of record in this state while the
17 name of the person is on the board under section ~~16-4-112~~ 16-4-114 (5)
18 (e), C.R.S., or under any circumstance where the person has failed to pay
19 a bail forfeiture judgment after all applicable stays of execution have
20 expired and the bond has not been exonerated or discharged;

21 **SECTION 11.** In Colorado Revised Statutes, 19-2-509, **amend**
22 (4) (a) as follows:

23 **19-2-509. Bail.** (4) (a) In determining ~~the amount of bail and the~~
24 type of bond ~~to be furnished by~~ AND CONDITIONS OF RELEASE FOR the
25 juvenile, the judge or magistrate fixing the same shall consider the criteria
26 set forth in section ~~16-4-105 (1)~~ 16-4-103, C.R.S.

27 **SECTION 12. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.