

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

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
Judiciary

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.*

SENATE
Amended 2nd Reading
April 17, 2013

HOUSE
3rd Reading Unamended
March 21, 2013

HOUSE
Amended 2nd Reading
March 19, 2013

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 (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 SECURITY, WHICH MAY INCLUDE A BOND WITH OR
9 WITHOUT MONETARY CONDITIONS, REQUIRED BY A COURT FOR THE
10 RELEASE OF A PERSON IN CUSTODY SET TO PROVIDE REASONABLE
11 ASSURANCE OF PUBLIC SAFETY AND COURT APPEARANCE.

12 (5) "Bond" means A BAIL BOND WHICH IS an undertaking, with or
13 without sureties or security, entered into by a person in custody by which
14 he binds himself to comply with the conditions of the undertaking and in
15 default of such compliance to pay the amount of bail or other sum fixed,
16 IF ANY, in the bond.

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

19 PART 1

20 RELEASE ON BAIL

21 **16-4-101. Bailable offenses - definitions.** (1) ALL PERSONS
22 SHALL BE BAILABLE BY SUFFICIENT SURETIES EXCEPT:

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

25 (b) WHEN, AFTER A HEARING HELD WITHIN NINETY-SIX HOURS OF
26 ARREST AND UPON REASONABLE NOTICE, THE COURT FINDS THAT THE
27 PROOF IS EVIDENT OR THE PRESUMPTION IS GREAT AS TO THE CRIME

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

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

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

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

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

20 (V) SEXUAL ASSAULT, AS DESCRIBED IN SECTION
21 18-3-402, SEXUAL ASSAULT IN THE FIRST DEGREE, AS DESCRIBED IN
22 SECTION 18-3-402, AS IT EXISTED PRIOR TO JULY 1, 2000, SEXUAL ASSAULT
23 IN THE SECOND DEGREE, AS DESCRIBED IN SECTION 18-3-403, AS IT
24 EXISTED PRIOR TO JULY 1, 2000, SEXUAL ASSAULT ON A CHILD, AS
25 DESCRIBED IN SECTION 18-3-405, OR SEXUAL ASSAULT ON A CHILD BY ONE
26 IN A POSITION OF TRUST, AS DESCRIBED IN SECTION 18-3-405.3 IN WHICH
27 THE VICTIM IS FOURTEEN YEARS OF AGE OR YOUNGER AND SEVEN OR MORE

1 YEARS YOUNGER THAN THE ACCUSED.

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

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

11 (3) IN ANY CAPITAL CASE, THE DEFENDANT MAY MAKE A WRITTEN
12 MOTION FOR ADMISSION TO BAIL UPON THE GROUND THAT THE PROOF IS
13 NOT EVIDENT OR THAT PRESUMPTION IS NOT GREAT, AND THE COURT
14 SHALL PROMPTLY CONDUCT A HEARING UPON SUCH MOTION. AT SUCH
15 HEARING, THE BURDEN SHALL BE UPON THE PEOPLE TO ESTABLISH THAT
16 THE PROOF IS EVIDENT OR THAT THE PRESUMPTION IS GREAT. THE COURT
17 MAY COMBINE IN A SINGLE HEARING THE QUESTIONS AS TO WHETHER THE
18 PROOF IS EVIDENT OR THE PRESUMPTION GREAT WITH THE DETERMINATION
19 OF THE EXISTENCE OF PROBABLE CAUSE TO BELIEVE THAT THE DEFENDANT
20 COMMITTED THE CRIME CHARGED.

21 (4) EXCEPT IN THE CASE OF A CAPITAL OFFENSE, IF A PERSON IS
22 DENIED BAIL UNDER THIS SECTION, THE TRIAL OF THE PERSON SHALL BE
23 COMMENCED NOT MORE THAN NINETY-ONE DAYS AFTER THE DATE ON
24 WHICH BAIL IS DENIED. IF THE TRIAL IS NOT COMMENCED WITHIN
25 NINETY-ONE DAYS AND THE DELAY IS NOT ATTRIBUTABLE TO THE
26 DEFENSE, THE COURT SHALL IMMEDIATELY SCHEDULE A BAIL HEARING
27 AND SHALL SET THE AMOUNT OF THE BAIL FOR THE PERSON.

1 (5) WHEN A PERSON IS ARRESTED FOR A CRIME OF VIOLENCE, AS
2 DEFINED IN SECTION 16-1-104 (8.5), OR A CRIMINAL OFFENSE ALLEGING
3 THE USE OR POSSESSION OF A DEADLY WEAPON OR THE CAUSING OF BODILY
4 INJURY TO ANOTHER PERSON, OR A CRIMINAL OFFENSE ALLEGING THE
5 POSSESSION OF A WEAPON BY A PREVIOUS OFFENDER, AS DESCRIBED IN
6 SECTION 18-12-108 (2) (b), (2) (c), (4) (b), (4) (c), OR (5), C.R.S., AND
7 SUCH PERSON IS ON PAROLE, THE LAW ENFORCEMENT AGENCY MAKING
8 THE ARREST SHALL NOTIFY THE DEPARTMENT OF CORRECTIONS WITHIN
9 TWENTY-FOUR HOURS. THE PERSON SO ARRESTED SHALL NOT BE ELIGIBLE
10 FOR BAIL TO BE SET UNTIL AT LEAST SEVENTY-TWO HOURS FROM THE TIME
11 OF HIS OR HER ARREST HAS PASSED.

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

1 CRIMINAL CHARGE OF ANY KIND HAS BEEN FILED.

2

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

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

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

20 (b) IN DETERMINING THE TYPE OF BOND AND CONDITIONS OF
21 RELEASE, IF PRACTICABLE AND AVAILABLE IN THE JURISDICTION, THE
22 COURT SHALL USE AN EMPIRICALLY DEVELOPED RISK ASSESSMENT
23 INSTRUMENT DESIGNED TO IMPROVE PRETRIAL RELEASE DECISIONS BY
24 PROVIDING TO THE COURT INFORMATION THAT CLASSIFIES A PERSON IN
25 CUSTODY BASED UPON PREDICTED LEVEL OF RISK OF PRETRIAL FAILURE.

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

1 (a) PRESUME THAT ALL PERSONS IN CUSTODY ARE ELIGIBLE FOR
2 RELEASE ON BOND WITH THE APPROPRIATE AND LEAST-RESTRICTIVE
3 CONDITIONS CONSISTENT WITH PROVISIONS IN PARAGRAPH (a) OF
4 SUBSECTION (3) OF THIS SECTION UNLESS A PERSON IS OTHERWISE
5 INELIGIBLE FOR RELEASE PURSUANT TO THE PROVISIONS OF SECTION
6 16-4-101 AND SECTION 19 OF ARTICLE II OF THE COLORADO
7 CONSTITUTION. A MONETARY CONDITION OF RELEASE MUST BE
8 REASONABLE AND ANY OTHER CONDITION OF CONDUCT NOT MANDATED
9 BY STATUTE MUST BE TAILORED TO ADDRESS A SPECIFIC CONCERN.

10 (b) TO THE EXTENT A COURT USES A BOND SCHEDULE, THE COURT
11 SHALL INCORPORATE INTO THE BOND SCHEDULE CONDITIONS OF RELEASE
12 AND FACTORS THAT CONSIDER THE INDIVIDUALIZED RISK AND
13 CIRCUMSTANCES OF A PERSON IN CUSTODY AND ALL OTHER RELEVANT
14 CRITERIA AND NOT SOLELY THE LEVEL OF OFFENSE; AND

15 (c) CONSIDER ALL METHODS OF BOND AND CONDITIONS OF
16 RELEASE TO AVOID UNNECESSARY PRETRIAL INCARCERATION AND LEVELS
17 OF COMMUNITY-BASED SUPERVISION AS CONDITIONS OF PRETRIAL
18 RELEASE.

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

22 (a) THE EMPLOYMENT STATUS AND HISTORY OF THE PERSON IN
23 CUSTODY;

24 (b) THE NATURE AND EXTENT OF FAMILY RELATIONSHIPS OF THE
25 PERSON IN CUSTODY;

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

27 (d) THE CHARACTER AND REPUTATION OF THE PERSON IN

1 CUSTODY;

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

4 (f) THE LIKELY SENTENCE, CONSIDERING THE NATURE AND THE
5 OFFENSE PRESENTLY CHARGED;

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

8 (h) ANY FACTS INDICATING THE POSSIBILITY OF VIOLATIONS OF
9 THE LAW IF THE PERSON IN CUSTODY IS RELEASED WITHOUT CERTAIN
10 CONDITIONS OF RELEASE;

11 (i) ANY FACTS INDICATING THAT THE DEFENDANT IS LIKELY TO
12 INTIMIDATE OR HARASS POSSIBLE WITNESSES; AND

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

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

19 **16-4-104. Types of bond set by the court.** (1) THE COURT SHALL
20 DETERMINE, AFTER CONSIDERATION OF ALL RELEVANT CRITERIA, WHICH
21 OF THE FOLLOWING TYPES OF BOND IS APPROPRIATE FOR THE PRETRIAL
22 RELEASE OF A PERSON IN CUSTODY, SUBJECT TO THE RELEVANT
23 STATUTORY CONDITIONS OF RELEASE LISTED IN SECTION 16-4-105. THE
24 PERSON MAY BE RELEASED UPON EXECUTION OF:

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

1 (b) AN UNSECURED PERSONAL RECOGNIZANCE BOND WITH
2 ADDITIONAL NON-MONETARY CONDITIONS OF RELEASE DESIGNED
3 SPECIFICALLY TO REASONABLY ENSURE THE APPEARANCE OF THE PERSON
4 IN COURT AND THE SAFETY OF ANY PERSON OR PERSONS OR THE
5 COMMUNITY;

6 (c) A BOND WITH SECURED MONETARY CONDITIONS WHEN
7 REASONABLE AND NECESSARY TO ENSURE THE APPEARANCE OF
8 THE PERSON IN COURT OR THE SAFETY OF ANY PERSON OR PERSONS OR THE
9 COMMUNITY. THE FINANCIAL CONDITIONS SHALL STATE AN AMOUNT OF
10 MONEY THAT THE PERSON MUST POST WITH THE COURT IN ORDER FOR THE
11 PERSON TO BE RELEASED. THE PERSON MAY BE RELEASED FROM CUSTODY
12 UPON EXECUTION OF BOND IN THE FULL AMOUNT OF MONEY TO BE
13 SECURED IN ANY ONE OF THE FOLLOWING WAYS:

14 (I) BY A DEPOSIT WITH THE CLERK OF THE COURT OF AN AMOUNT
15 OF CASH EQUAL TO THE MONETARY CONDITION OF THE BOND;

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

21 (III) BY SURETIES WORTH AT LEAST ONE AND ONE-HALF OF THE
22 SECURITY SET IN THE BOND; OR

23 (IV) BY A BAIL BONDING AGENT, AS DEFINED IN SECTION 16-1-104
24 (3.5).

25 (d) A BOND WITH SECURED REAL ESTATE CONDITIONS WHEN IT IS
26 DETERMINED THAT RELEASE ON AN UNSECURED PERSONAL RECOGNIZANCE
27 BOND WITHOUT MONETARY CONDITIONS WILL NOT REASONABLY ENSURE

1 THE APPEARANCE OF THE PERSON IN COURT OR THE SAFETY OF ANY
2 PERSON OR PERSONS OR THE COMMUNITY. FOR A BOND SECURED BY REAL
3 ESTATE, THE BOND SHALL NOT BE ACCEPTED BY THE CLERK OF THE COURT
4 UNLESS THE RECORD OWNER OF SUCH PROPERTY PRESENTS TO THE CLERK
5 OF THE COURT THE ORIGINAL DEED OF TRUST AS SET FORTH IN
6 SUBPARAGRAPH (IV) OF THIS PARAGRAPH (d) AND THE APPLICABLE
7 RECORDING FEE. UPON RECEIPT OF THE DEED OF TRUST AND FEE, THE
8 CLERK OF THE COURT SHALL RECORD THE DEED OF TRUST WITH THE CLERK
9 AND RECORDER FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED.
10 FOR A BOND SECURED BY REAL ESTATE, THE AMOUNT OF THE OWNER'S
11 UNENCUMBERED EQUITY SHALL BE DETERMINED BY DEDUCTING THE
12 AMOUNT OF ALL ENCUMBRANCES LISTED IN THE OWNER AND
13 ENCUMBRANCES CERTIFICATE FROM THE ACTUAL VALUE OF SUCH REAL
14 ESTATE AS SHOWN ON THE CURRENT NOTICE OF VALUATION. THE OWNER
15 OF THE REAL ESTATE SHALL FILE WITH THE BOND THE FOLLOWING, WHICH
16 SHALL CONSTITUTE A MATERIAL PART OF THE BOND:

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

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

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

27 (IV) A DEED OF TRUST TO THE PUBLIC TRUSTEE OF THE COUNTY IN

1 WHICH THE REAL ESTATE IS LOCATED THAT IS EXECUTED AND
2 ACKNOWLEDGED BY ALL RECORD OWNERS OF THE REAL ESTATE. THE DEED
3 OF TRUST SHALL NAME THE CLERK OF THE COURT APPROVING THE BOND
4 AS BENEFICIARY. THE DEED OF TRUST SHALL SECURE AN AMOUNT EQUAL
5 TO ONE AND ONE-HALF TIMES THE AMOUNT OF THE BOND.

6 (2) UNLESS THE DISTRICT ATTORNEY CONSENTS OR UNLESS THE
7 COURT IMPOSES CERTAIN ADDITIONAL INDIVIDUALIZED CONDITIONS OF
8 RELEASE AS DESCRIBED IN SECTION 16-4-105, A PERSON MUST NOT BE
9 RELEASED ON AN UNSECURED PERSONAL RECOGNIZANCE BOND PURSUANT
10 TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION UNDER THE
11 FOLLOWING CIRCUMSTANCES:

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

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

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

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

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

7 **16-4-105. Conditions of release on bond.** (1) FOR EACH BOND,
8 THE COURT SHALL REQUIRE THAT THE RELEASED PERSON APPEAR TO
9 ANSWER THE CHARGE AGAINST THE PERSON AT A PLACE AND UPON A DATE
10 CERTAIN AND AT ANY PLACE OR UPON ANY DATE TO WHICH THE
11 PROCEEDING IS TRANSFERRED OR CONTINUED. THIS CONDITION IS THE
12 ONLY CONDITION FOR WHICH A BREACH OF SURETY OR SECURITY ON THE
13 BAIL BOND MAY BE SUBJECT TO FORFEITURE.

14 (2) FOR A PERSON WHO HAS BEEN ARRESTED FOR A FELONY
15 OFFENSE, THE COURT SHALL REQUIRE AS A CONDITION OF A BOND THAT
16 THE PERSON EXECUTE A WAIVER OF EXTRADITION STATING THE PERSON
17 CONSENTS TO EXTRADITION TO THIS STATE AND WAIVES ALL FORMAL
18 PROCEDURES INCIDENTAL TO EXTRADITION PROCEEDINGS IN THE EVENT
19 THAT HE OR SHE IS ARRESTED IN ANOTHER STATE WHILE AT LIBERTY ON
20 SUCH BAIL BOND AND ACKNOWLEDGING THAT HE OR SHE SHALL NOT BE
21 ADMITTED TO BAIL IN ANY OTHER STATE PENDING EXTRADITION TO THIS
22 STATE.

23 (3) ADDITIONAL CONDITIONS OF EVERY BOND IS THAT THE
24 RELEASED PERSON SHALL NOT COMMIT ANY FELONY WHILE FREE ON SUCH
25 A BAIL BOND, AND THE COURT IN WHICH THE ACTION IS PENDING HAS THE
26 POWER TO REVOKE THE RELEASE OF THE PERSON, TO CHANGE ANY BOND
27 CONDITION, INCLUDING THE AMOUNT OF ANY MONETARY CONDITION IF IT

1 IS SHOWN THAT A COMPETENT COURT HAS FOUND PROBABLE CAUSE TO
2 BELIEVE THAT THE DEFENDANT HAS COMMITTED A FELONY WHILE
3 RELEASED, PENDING THE RESOLUTION OF A PRIOR FELONY CHARGE.

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

8 (5) AN ADDITIONAL CONDITION OF EVERY BOND IN A CASE OF AN
9 OFFENSE UNDER SECTION 42-2-138 (1) (d) (I), C.R.S., OF DRIVING WHILE
10 SUCH PERSON'S DRIVER'S LICENSE OR PRIVILEGE TO DRIVE, EITHER AS A
11 RESIDENT OR NONRESIDENT, IS RESTRAINED SOLELY OR PARTIALLY
12 BECAUSE OF A CONVICTION OF A DRIVING OFFENSE PURSUANT TO SECTION
13 42-4-1301 (1) OR (2) (a), C.R.S., IS THAT SUCH PERSON NOT DRIVE ANY
14 MOTOR VEHICLE DURING THE PERIOD OF SUCH DRIVING RESTRAINT.

15 (6) (a) IF A PERSON IS ARRESTED FOR DRIVING UNDER THE
16 INFLUENCE OR DRIVING WHILE ABILITY IMPAIRED, PURSUANT TO SECTION
17 42-4-1301, C.R.S., AND THE PERSON HAS ONE OR MORE PREVIOUS
18 CONVICTIONS FOR AN OFFENSE IN SECTION 42-4-1301, C.R.S., OR ONE OR
19 MORE CONVICTIONS IN ANY OTHER JURISDICTION THAT WOULD
20 CONSTITUTE A VIOLATION OF SECTION 42-4-1301, C.R.S., AS A CONDITION
21 OF ANY BOND, THE COURT SHALL ORDER THAT THE PERSON ABSTAIN FROM
22 THE USE OF ALCOHOL OR ILLEGAL DRUGS, AND SUCH ABSTINENCE SHALL
23 BE MONITORED.

24 (b) A PERSON SEEKING RELIEF FROM ANY OF THE CONDITIONS
25 IMPOSED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL
26 FILE A MOTION WITH THE COURT, AND THE COURT SHALL CONDUCT A
27 HEARING UPON THE MOTION. THE COURT SHALL CONSIDER WHETHER THE

1 CONDITION FROM WHICH THE PERSON IS SEEKING RELIEF IS IN THE
2 INTEREST OF JUSTICE AND WHETHER PUBLIC SAFETY WOULD BE
3 ENDANGERED IF THE CONDITION WERE NOT ENFORCED. WHEN
4 DETERMINING WHETHER TO GRANT RELIEF PURSUANT TO THIS PARAGRAPH
5 (b), THE COURT SHALL CONSIDER WHETHER THE PERSON HAS
6 VOLUNTARILY ENROLLED AND IS PARTICIPATING IN AN APPROPRIATE
7 SUBSTANCE ABUSE TREATMENT PROGRAM.

8 (7) A PERSON MAY BE RELEASED ON A BOND WITH MONETARY
9 CONDITION OF BOND, WHEN APPROPRIATE, AS DESCRIBED IN SECTION
10 16-4-104 (1) (c).

11 (8) IN ADDITION TO THE CONDITIONS SPECIFIED IN THIS SECTION,
12 THE COURT MAY IMPOSE ANY ADDITIONAL CONDITIONS ON THE CONDUCT
13 OF THE PERSON RELEASED THAT WILL ASSIST IN OBTAINING THE
14 APPEARANCE OF THE PERSON IN COURT AND THE SAFETY OF ANY PERSON
15 OR PERSONS AND THE COMMUNITY. THESE CONDITIONS MAY INCLUDE, BUT
16 ARE NOT LIMITED TO, SUPERVISION BY A QUALIFIED PERSON OR
17 ORGANIZATION OR SUPERVISION BY A PRETRIAL SERVICES PROGRAM
18 ESTABLISHED PURSUANT TO SECTION 16-4-106. WHILE UNDER THE
19 SUPERVISION OF A QUALIFIED ORGANIZATION OR PRETRIAL SERVICES
20 PROGRAM, THE CONDITIONS OF RELEASE IMPOSED BY THE COURT MAY
21 INCLUDE, BUT ARE NOT LIMITED TO:

22 (a) PERIODIC TELEPHONE CONTACT WITH THE PROGRAM;

23 (b) PERIODIC OFFICE VISITS BY THE PERSON TO THE PRETRIAL
24 SERVICES PROGRAM OR ORGANIZATION;

25 (c) PERIODIC VISITS TO THE PERSON'S HOME BY THE PROGRAM OR
26 ORGANIZATION;

27 (d) MENTAL HEALTH OR SUBSTANCE ABUSE TREATMENT FOR THE

1 PERSON, INCLUDING RESIDENTIAL TREATMENT IF THE DEFENDANT
2 CONSENTS TO THE TREATMENT;

3 (e) PERIODIC ALCOHOL OR DRUG TESTING OF THE PERSON;

4 (f) DOMESTIC VIOLENCE COUNSELING FOR THE DEFENDANT IF THE
5 DEFENDANT CONSENTS TO THE COUNSELING;

6 (g) ELECTRONIC OR GLOBAL POSITION MONITORING OF THE
7 PERSON;

8 (h) PRETRIAL WORK RELEASE FOR THE PERSON; AND

9 (i) OTHER SUPERVISION TECHNIQUES SHOWN BY RESEARCH TO
10 INCREASE COURT APPEARANCE AND PUBLIC SAFETY RATES FOR PERSONS
11 RELEASED ON BOND.

12 **16-4-106. Pretrial services programs.** (1) THE CHIEF JUDGE OF
13 ANY JUDICIAL DISTRICT MAY ORDER A PERSON WHO IS ELIGIBLE FOR BOND
14 OR OTHER PRETRIAL RELEASE TO BE EVALUATED BY A PRETRIAL SERVICES
15 PROGRAM ESTABLISHED PURSUANT TO THIS SECTION, WHICH PROGRAM
16 MAY ADVISE THE COURT IF THE PERSON IS BOND ELIGIBLE, MAY PROVIDE
17 INFORMATION THAT ENABLES THE COURT TO MAKE AN APPROPRIATE
18 DECISION ON BOND AND CONDITIONS OF RELEASE, AND MAY RECOMMEND
19 CONDITIONS OF RELEASE CONSISTENT WITH THIS SECTION. THE CHIEF
20 JUDGE MAY MAKE SUCH ORDER IN ANY OR ALL OF THE COUNTIES OF THE
21 CHIEF JUDGE'S JUDICIAL DISTRICT.

22 (2) THE CHIEF JUDGE OF ANY JUDICIAL DISTRICT SHALL ENDEAVOR
23 TO CONSULT, ON AN ANNUAL BASIS, WITH THE COUNTY OR COUNTIES
24 WITHIN THE JUDICIAL DISTRICT IN AN EFFORT TO SUPPORT AND
25 ENCOURAGE THE DEVELOPMENT BY THE COUNTY OR COUNTIES, TO THE
26 EXTENT PRACTICABLE AND WITHIN AVAILABLE RESOURCES, OF PRETRIAL
27 SERVICES PROGRAMS THAT SUPPORT THE WORK OF THE COURT AND

1 EVIDENCE-BASED DECISION-MAKING IN DETERMINING THE TYPE OF
2 BOND AND CONDITIONS OF RELEASE.

3 (3) TO REDUCE BARRIERS TO THE PRETRIAL RELEASE OF PERSONS
4 IN CUSTODY WHOSE RELEASE ON BOND WITH APPROPRIATE CONDITIONS
5 REASONABLY ASSURES COURT APPEARANCE AND PUBLIC SAFETY, ALL
6 COUNTIES AND CITIES AND COUNTIES ARE ENCOURAGED TO DEVELOP A
7 PRETRIAL SERVICES PROGRAM IN CONSULTATION WITH THE CHIEF JUDGE
8 OF THE JUDICIAL DISTRICT IN AN EFFORT TO ESTABLISH A PRETRIAL
9 SERVICES PROGRAM THAT MAY BE UTILIZED BY THE DISTRICT COURT OF
10 SUCH COUNTY OR CITY AND COUNTY. ANY PRETRIAL SERVICES PROGRAM
11 MUST BE ESTABLISHED PURSUANT TO A PLAN FORMULATED BY A
12 COMMUNITY ADVISORY BOARD CREATED FOR SUCH PURPOSE AND
13 APPOINTED BY THE CHIEF JUDGE OF THE JUDICIAL DISTRICT. MEMBERSHIP
14 ON SUCH COMMUNITY ADVISORY BOARD MUST INCLUDE, AT A MINIMUM,
15 A REPRESENTATIVE OF A LOCAL LAW ENFORCEMENT AGENCY, A
16 REPRESENTATIVE OF THE DISTRICT ATTORNEY, A REPRESENTATIVE OF THE
17 PUBLIC DEFENDER, AND A REPRESENTATIVE OF THE CITIZENS AT LARGE.
18 THE CHIEF JUDGE IS ENCOURAGED TO APPOINT TO THE COMMUNITY
19 ADVISORY BOARD AT LEAST ONE REPRESENTATIVE OF THE BAIL BOND
20 INDUSTRY WHO CONDUCTS BUSINESS IN THE JUDICIAL DISTRICT, WHICH
21 MAY INCLUDE A BAIL BONDSMAN, A BAIL SURETY, OR OTHER DESIGNATED
22 BAIL INDUSTRY REPRESENTATIVE. THE PLAN FORMULATED BY SUCH
23 COMMUNITY ADVISORY BOARD MUST BE APPROVED BY THE CHIEF JUDGE
24 OF THE JUDICIAL DISTRICT PRIOR TO THE ESTABLISHMENT AND
25 UTILIZATION OF THE PRETRIAL SERVICES PROGRAM. THE OPTION
26 CONTAINED IN THIS SECTION THAT A PRETRIAL SERVICES PROGRAM BE
27 ESTABLISHED PURSUANT TO A PLAN FORMULATED BY THE COMMUNITY

1 ADVISORY BOARD DOES NOT APPLY TO ANY PRETRIAL SERVICES PROGRAM
2 THAT EXISTED BEFORE MAY 31, 1991.

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

5 (a) THE PROGRAM MUST ESTABLISH A PROCEDURE FOR THE
6 SCREENING OF PERSONS WHO ARE DETAINED DUE TO AN ARREST FOR THE
7 ALLEGED COMMISSION OF A CRIME SO THAT SUCH INFORMATION MAY BE
8 PROVIDED TO THE JUDGE WHO IS SETTING THE BOND AND CONDITIONS OF
9 RELEASE. THE PROGRAM MUST PROVIDE INFORMATION THAT PROVIDES
10 THE COURT WITH THE ABILITY TO MAKE AN APPROPRIATE INITIAL BOND
11 DECISION THAT IS BASED UPON FACTS RELATING TO THE PERSON'S RISK OF
12 FAILURE TO APPEAR FOR COURT AND RISK OF DANGER TO THE COMMUNITY.

13 (b) THE PROGRAM MUST MAKE ALL REASONABLE ATTEMPTS TO
14 PROVIDE THE COURT WITH SUCH INFORMATION DELINEATED IN THIS
15 SECTION AS IS APPROPRIATE TO EACH INDIVIDUAL PERSON SEEKING
16 RELEASE FROM CUSTODY;

17 (c) THE PROGRAM, IN CONJUNCTION WITH THE COMMUNITY
18 ADVISORY BOARD, MUST MAKE ALL REASONABLE EFFORTS TO IMPLEMENT
19 AN EMPIRICALLY DEVELOPED PRETRIAL RISK ASSESSMENT TOOL AND
20 A STRUCTURED DECISION-MAKING DESIGN BASED UPON THE PERSON'S
21 CHARGE AND THE RISK ASSESSMENT SCORE;

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

25 (5) ANY PRETRIAL SERVICES PROGRAM MAY ALSO INCLUDE
26 DIFFERENT METHODS AND LEVELS OF COMMUNITY-BASED SUPERVISION AS
27 A CONDITION OF RELEASE, AND THE PROGRAM MUST USE ESTABLISHED

1 METHODS FOR PERSONS WHO ARE RELEASED PRIOR TO TRIAL IN ORDER TO
2 DECREASE UNNECESSARY PRETRIAL DETENTION. THE PROGRAM MAY
3 INCLUDE, BUT IS NOT LIMITED TO, ANY OF THE CRITERIA AS OUTLINED IN
4 SECTION 16-4-105 (8) AS CONDITIONS FOR PRETRIAL RELEASE.

5 (6) COMMENCING JULY 1, 2012, EACH PRETRIAL SERVICES
6 PROGRAM ESTABLISHED PURSUANT TO THIS SECTION SHALL PROVIDE AN
7 ANNUAL REPORT TO THE JUDICIAL DEPARTMENT NO LATER THAN
8 NOVEMBER 1 OF EACH YEAR, REGARDLESS OF WHETHER THE PROGRAM
9 EXISTED PRIOR TO MAY 31, 1991. THE JUDICIAL DEPARTMENT SHALL
10 PRESENT AN ANNUAL COMBINED REPORT TO THE HOUSE AND SENATE
11 JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE
12 SENATE, OR ANY SUCCESSOR COMMITTEES, OF THE GENERAL ASSEMBLY.
13 THE REPORT TO THE JUDICIAL DEPARTMENT MUST INCLUDE, BUT IS NOT
14 LIMITED TO, THE FOLLOWING INFORMATION:

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

17 (b) THE TOTAL NUMBER OF CLOSED CASES BY THE PROGRAM IN
18 WHICH THE PERSON WAS RELEASED FROM CUSTODY AND SUPERVISED BY
19 THE PROGRAM;

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

24 (d) THE TOTAL NUMBER OF CLOSED CASES IN WHICH THE PERSON
25 WAS RELEASED FROM CUSTODY, WAS SUPERVISED BY THE PROGRAM, AND
26 WAS NOT CHARGED WITH A NEW CRIMINAL OFFENSE THAT WAS ALLEGED
27 TO HAVE OCCURRED WHILE UNDER SUPERVISION AND THAT CARRIED THE

1 POSSIBILITY OF A SENTENCE TO JAIL OR IMPRISONMENT;

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

6 (f) ANY ADDITIONAL INFORMATION THE JUDICIAL DEPARTMENT
7 MAY REQUEST.

8 (7) FOR THE REPORTS REQUIRED IN SUBSECTION (6) OF THIS
9 SECTION, THE PRETRIAL SERVICES PROGRAM SHALL INCLUDE INFORMATION
10 DETAILING THE NUMBER OF PERSONS RELEASED ON A COMMERCIAL
11 SURETY BOND IN ADDITION TO PRETRIAL SUPERVISION, THE NUMBER OF
12 PERSONS RELEASED ON A CASH, PRIVATE SURETY, OR PROPERTY BOND IN
13 ADDITION TO PRETRIAL SUPERVISION, AND THE NUMBER OF PERSONS
14 RELEASED ON ANY FORM OF A PERSONAL RECOGNIZANCE BOND IN
15 ADDITION TO PRETRIAL SUPERVISION.

16 **16-4-107. Hearing after setting of monetary conditions of**
17 **bond.** IF A PERSON IS IN CUSTODY AND THE COURT IMPOSED A MONETARY
18 BOND FOR RELEASE, AND THE PERSON, AFTER SEVEN DAYS FROM THE
19 SETTING OF THE MONETARY BOND, IS UNABLE TO MEET THE MONETARY
20 OBLIGATIONS OF THE BOND, THE PERSON MAY FILE A WRITTEN MOTION FOR
21 RECONSIDERATION OF THE MONETARY CONDITIONS OF THE BOND. THE
22 PERSON MAY ONLY FILE THE WRITTEN MOTION IF HE OR SHE BELIEVES
23 THAT, UPON PRESENTATION OF EVIDENCE NOT FULLY CONSIDERED BY THE
24 COURT, HE OR SHE IS ENTITLED TO A PERSONAL RECOGNIZANCE BOND OR
25 AN UNSECURED BOND WITH CONDITIONS OF RELEASE OR A CHANGE IN THE
26 MONETARY CONDITIONS OF BOND. THE COURT SHALL PROMPTLY CONDUCT
27 A HEARING ON THIS MOTION FOR RECONSIDERATION, BUT THE HEARING

1 MUST BE HELD WITHIN FOURTEEN DAYS AFTER THE FILING OF THE MOTION.
2 HOWEVER, THE COURT MAY SUMMARILY DENY THE MOTION IF THE COURT
3 FINDS THAT THERE IS NO ADDITIONAL EVIDENCE NOT FULLY CONSIDERED
4 BY THE COURT PRESENTED IN THE WRITTEN MOTION. IN CONSIDERING THE
5 MOTION, THE COURT SHALL CONSIDER THE RESULTS OF ANY EMPIRICALLY
6 DEVELOPED RISK ASSESSMENT INSTRUMENT.

7 **16-4-108. When original bond continued.** ONCE A BOND HAS
8 BEEN EXECUTED AND THE PERSON RELEASED FROM CUSTODY THEREON,
9 WHETHER A CHARGE IS THEN PENDING OR IS THEREAFTER FILED OR
10 TRANSFERRED TO A COURT OF COMPETENT JURISDICTION, THE ORIGINAL
11 BOND SHALL CONTINUE IN EFFECT UNTIL FINAL DISPOSITION OF THE CASE
12 IN THE TRIAL COURT. IF A CHARGE FILED IN THE COUNTY COURT IS
13 DISMISSED AND THE DISTRICT ATTORNEY STATES ON THE RECORD THAT
14 THE CHARGE WILL BE REFILED IN THE DISTRICT COURT OR THAT THE
15 DISMISSAL BY THE COUNTY COURT WILL BE APPEALED TO THE DISTRICT
16 COURT, THE COUNTY COURT BEFORE ENTERING THE DISMISSAL SHALL FIX
17 A RETURN DATE, NOT LATER THAN SIXTY-THREE DAYS THEREAFTER, UPON
18 WHICH THE DEFENDANT MUST APPEAR IN THE DISTRICT COURT AND
19 CONTINUE THE BOND. ANY BOND CONTINUED PURSUANT TO THIS SECTION
20 IS SUBJECT TO THE PROVISIONS OF SECTION 16-4-109.

21 **16-4-109. Reduction or increase of monetary conditions of**
22 **bond - change in type of bond or conditions of bond - definitions.**

23 (1) UPON APPLICATION BY THE DISTRICT ATTORNEY OR THE DEFENDANT,
24 THE COURT BEFORE WHICH THE PROCEEDING IS PENDING MAY INCREASE OR
25 DECREASE THE FINANCIAL CONDITIONS OF BOND, MAY REQUIRE
26 ADDITIONAL SECURITY FOR A BOND, MAY DISPENSE WITH SECURITY
27 THERETOFORE PROVIDED, OR MAY ALTER ANY OTHER CONDITION OF THE

1 BOND.

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

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

8 (4) (a) UPON VERIFIED APPLICATION BY THE DISTRICT ATTORNEY
9 OR A BONDING COMMISSIONER STATING FACTS OR CIRCUMSTANCES
10 CONSTITUTING A BREACH OR A THREATENED BREACH OF ANY OF THE
11 CONDITIONS OF THE BOND, THE COURT MAY ISSUE A WARRANT
12 COMMANDING ANY PEACE OFFICER TO BRING THE DEFENDANT WITHOUT
13 UNNECESSARY DELAY BEFORE THE COURT FOR A HEARING ON THE
14 MATTERS SET FORTH IN THE APPLICATION. UPON ISSUANCE OF THE
15 WARRANT, THE BONDING COMMISSIONER SHALL NOTIFY THE BAIL BOND
16 AGENT OF RECORD BY ELECTRONIC MAIL TO THE AGENT IF AVAILABLE
17 WITHIN TWENTY-FOUR HOURS OR BY CERTIFIED MAIL NOT MORE THAN
18 FOURTEEN DAYS AFTER THE WARRANT IS ISSUED. AT THE CONCLUSION OF
19 THE HEARING, THE COURT MAY ENTER AN ORDER AUTHORIZED BY
20 SUBSECTION (1) OF THIS SECTION. IF A BONDING COMMISSIONER FILES AN
21 APPLICATION FOR A HEARING PURSUANT TO THIS SUBSECTION (4), THE
22 BONDING COMMISSIONER SHALL NOTIFY THE DISTRICT ATTORNEY, FOR THE
23 JURISDICTION IN WHICH THE APPLICATION IS MADE, OF THE APPLICATION
24 WITHIN TWENTY-FOUR HOURS FOLLOWING THE FILING OF THE
25 APPLICATION.

26 (b) AS USED IN THIS SUBSECTION (4), "BONDING COMMISSIONER"
27 MEANS A PERSON EMPLOYED BY A PRETRIAL SERVICES PROGRAM AS

1 DESCRIBED IN SECTION 16-4-106 (3), AND SO DESIGNATED AS A BONDING
2 COMMISSIONER BY THE CHIEF OR PRESIDING JUDGE OF THE JUDICIAL
3 DISTRICT.

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

8 **16-4-110. Exoneration from bond liability.** (1) ANY PERSON
9 EXECUTING A BAIL BOND AS PRINCIPAL OR AS SURETY SHALL BE
10 EXONERATED AS FOLLOWS:

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

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

13 (c) (I) WHEN THE SURETY APPEARS AND PROVIDES SATISFACTORY
14 EVIDENCE TO THE COURT THAT THE DEFENDANT IS UNABLE TO APPEAR
15 BEFORE THE COURT DUE TO SUCH DEFENDANT'S DEATH OR THE DETENTION
16 OR INCARCERATION OF SUCH DEFENDANT IN A FOREIGN JURISDICTION IF
17 THE DEFENDANT IS INCARCERATED FOR A PERIOD IN EXCESS OF
18 NINETY-ONE DAYS AND THE STATE OF COLORADO HAS REFUSED TO
19 EXTRADITE SUCH DEFENDANT; EXCEPT THAT, IF THE STATE EXTRADITES
20 SUCH DEFENDANT, ALL COSTS ASSOCIATED WITH SUCH EXTRADITION
21 SHALL BE BORNE BY THE SURETY UP TO THE AMOUNT OF THE BOND.

22 (II) FOR THE PURPOSES OF THIS PARAGRAPH (c), "COSTS
23 ASSOCIATED WITH EXTRADITION" SHALL BE CALCULATED AS AND LIMITED
24 TO THE ROUND-TRIP MILEAGE BETWEEN THE COLORADO COURT OF
25 JURISDICTION AND THE LOCATION OF THE DEFENDANT'S INCARCERATION
26 AT THE RATE ALLOWED FOR REIMBURSEMENT PURSUANT TO SECTION
27 24-9-104, C.R.S., UP TO THE AMOUNT OF THE BOND.

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

14 (e) AFTER THREE YEARS HAVE ELAPSED FROM THE POSTING OF THE
15 BOND, UNLESS A JUDGMENT HAS BEEN ENTERED AGAINST THE SURETY OR
16 THE PRINCIPAL FOR THE FORFEITURE OF THE BOND, OR UNLESS THE COURT
17 GRANTS AN EXTENSION OF THE THREE-YEAR TIME PERIOD FOR GOOD
18 CAUSE SHOWN, UPON MOTION BY THE PROSECUTING ATTORNEY AND
19 NOTICE TO SURETY OF RECORD.

20 (2) IF, WITHIN FOURTEEN DAYS AFTER THE POSTING OF A BOND BY
21 A DEFENDANT, THE TERMS AND CONDITIONS OF SAID BOND ARE CHANGED
22 OR ALTERED EITHER BY ORDER OF COURT OR UPON THE MOTION OF THE
23 DISTRICT ATTORNEY OR THE DEFENDANT, THE COURT, AFTER A HEARING,
24 MAY ORDER A COMPENSATED SURETY TO REFUND A PORTION OF THE
25 PREMIUM PAID BY THE DEFENDANT, IF NECESSARY, TO PREVENT UNJUST
26 ENRICHMENT. IF MORE THAN FOURTEEN DAYS HAVE ELAPSED AFTER
27 POSTING OF A BOND BY A DEFENDANT, THE COURT SHALL NOT ORDER THE

1 REFUND OF ANY PREMIUM.

2 (3) UPON ENTRY OF AN ORDER FOR DEFERRED PROSECUTION OR
3 DEFERRED JUDGMENT AS AUTHORIZED IN SECTIONS 18-1.3-101 AND
4 18-1.3-102, C.R.S., SURETIES UPON ANY BOND GIVEN FOR THE
5 APPEARANCE OF THE DEFENDANT SHALL BE RELEASED FROM LIABILITY ON
6 SUCH BOND.

7 **16-4-111. Disposition of security deposits upon forfeiture or**
8 **termination of bond.** (1) (a) IF A DEFENDANT IS RELEASED UPON DEPOSIT
9 OF CASH IN ANY AMOUNT OR UPON DEPOSIT OF ANY STOCKS OR BONDS AND
10 THE DEFENDANT IS LATER DISCHARGED FROM ALL LIABILITY UNDER THE
11 TERMS OF THE BOND, THE CLERK OF THE COURT SHALL RETURN THE
12 DEPOSIT TO THE PERSON WHO MADE THE DEPOSIT.

13 (b) (I) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
14 THIS SUBSECTION (1), IF THE DEPOSITOR OF THE CASH BOND IS THE
15 DEFENDANT AND THE DEFENDANT OWES COURT COSTS, FEES, FINES,
16 RESTITUTION, OR SURCHARGES AT THE TIME THE DEFENDANT IS
17 DISCHARGED FROM ALL LIABILITY UNDER THE TERMS OF THE BOND, THE
18 COURT MAY APPLY THE DEPOSIT TOWARD ANY AMOUNT OWED BY THE
19 DEFENDANT IN COURT COSTS, FEES, FINES, RESTITUTION, OR SURCHARGES.
20 IF ANY AMOUNT OF THE DEPOSIT REMAINS AFTER PAYING THE
21 DEFENDANT'S OUTSTANDING COURT COSTS, FEES, FINES, RESTITUTION, OR
22 SURCHARGES, THE COURT SHALL RETURN THE REMAINDER OF THE DEPOSIT
23 TO THE DEFENDANT.

24 (II) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
25 THIS SUBSECTION (1), IF THE DEPOSITOR OF THE CASH BOND IS NOT THE
26 DEFENDANT, BUT THE DEFENDANT OWES COURT COSTS, FEES, FINES,
27 RESTITUTION, OR SURCHARGES AT THE TIME THE DEFENDANT IS

1 DISCHARGED FROM ALL LIABILITY UNDER THE TERMS OF THE BOND, THE
2 COURT MAY APPLY THE DEPOSIT TOWARD THE AMOUNT OWED BY THE
3 DEFENDANT IN COURT COSTS, FEES, FINES, RESTITUTION, OR SURCHARGES
4 IF THE DEPOSITOR AGREES IN WRITING TO THE USE OF THE DEPOSIT FOR
5 SUCH PURPOSE. IF ANY AMOUNT OF THE DEPOSIT REMAINS AFTER PAYING
6 THE DEFENDANT'S OUTSTANDING COURT COSTS, FEES, FINES, RESTITUTION,
7 OR SURCHARGES, THE COURT SHALL RETURN THE REMAINDER OF THE
8 DEPOSIT TO THE DEPOSITOR.

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

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

21 (c) IF THERE IS A FORFEITURE OF THE BOND PURSUANT TO THIS
22 SECTION, BUT THE FORFEITURE IS SET ASIDE PURSUANT TO SUBSECTION (3)
23 OF THIS SECTION, THE CLERK OF THE COURT SHALL EXECUTE A RELEASE OF
24 ANY DEED OF TRUST GIVEN TO SECURE THE BOND AND AN AFFIDAVIT THAT
25 STATES THAT THE OBLIGATION FOR WHICH THE DEED OF TRUST HAD BEEN
26 RECORDED HAS BEEN SATISFIED, EITHER FULLY OR PARTIALLY, AND THAT
27 THE RELEASE OF SUCH DEED OF TRUST MAY BE RECORDED AT THE EXPENSE

1 OF THE RECORD OWNER OF THE REAL ESTATE DESCRIBED IN SUCH DEED OF
2 TRUST.

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

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

26 (5) IF, WITHIN ONE YEAR AFTER JUDGMENT, THE PERSON WHO
27 EXECUTED THE FORFEITED BOND AS PRINCIPAL OR AS SURETY EFFECTS THE

1 APPREHENSION OR SURRENDER OF THE DEFENDANT TO THE SHERIFF OF THE
2 COUNTY FROM WHICH THE BOND WAS TAKEN OR TO THE COURT WHICH
3 GRANTED THE BOND, THE COURT MAY VACATE THE JUDGMENT AND ORDER
4 A REMISSION LESS NECESSARY AND ACTUAL COSTS OF THE COURT.

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

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

14 **16-4-112. Enforcement when forfeiture not set aside.** BY
15 ENTERING INTO A BOND, EACH OBLIGOR, WHETHER HE OR SHE IS THE
16 PRINCIPAL OR A SURETY, SUBMITS TO THE JURISDICTION OF THE COURT.
17 HIS OR HER LIABILITY UNDER THE BOND MAY BE ENFORCED, WITHOUT THE
18 NECESSITY OF AN INDEPENDENT ACTION, AS FOLLOWS: THE COURT SHALL
19 ORDER THE ISSUANCE OF A CITATION DIRECTED TO THE OBLIGOR TO SHOW
20 CAUSE, IF ANY THERE BE, WHY JUDGMENT SHOULD NOT BE ENTERED
21 AGAINST HIM OR HER FORTHWITH AND EXECUTION ISSUE THEREON. SAID
22 CITATION MAY BE SERVED PERSONALLY OR BY CERTIFIED MAIL UPON THE
23 OBLIGOR DIRECTED TO THE ADDRESS GIVEN IN THE BOND. HEARING ON THE
24 CITATION SHALL BE HELD NOT LESS THAN TWENTY-ONE DAYS AFTER
25 SERVICE. THE DEFENDANT'S ATTORNEY AND THE PROSECUTING ATTORNEY
26 SHALL BE GIVEN NOTICE OF THE HEARING. AT THE CONCLUSION OF THE
27 HEARING, THE COURT MAY ENTER A JUDGMENT FOR THE STATE AND

1 AGAINST THE OBLIGOR, AND EXECUTION SHALL ISSUE THEREON AS ON
2 OTHER JUDGMENTS. THE DISTRICT ATTORNEY SHALL HAVE EXECUTION
3 ISSUED FORTHWITH UPON THE JUDGMENT AND DELIVER IT TO THE SHERIFF
4 TO BE EXECUTED BY LEVY UPON THE STOCKS, BOND, OR REAL ESTATE
5 WHICH HAS BEEN ACCEPTED AS SECURITY FOR THE BOND.

6 **16-4-113. Type of bond in certain misdemeanor cases.** (1) IN
7 EXERCISING THE DISCRETION MENTIONED IN SECTION 16-4-104, THE JUDGE
8 SHALL RELEASE THE ACCUSED PERSON UPON PERSONAL RECOGNIZANCE IF
9 THE CHARGE IS A CLASS 3 MISDEMEANOR OR A PETTY OFFENSE, OR ANY
10 UNCLASSIFIED OFFENSE FOR A VIOLATION OF WHICH THE MAXIMUM
11 PENALTY DOES NOT EXCEED SIX MONTHS' IMPRISONMENT, AND HE OR SHE
12 SHALL NOT BE REQUIRED TO SUPPLY A SURETY BOND, OR GIVE SECURITY
13 OF ANY KIND FOR HIS OR HER APPEARANCE FOR TRIAL OTHER THAN HIS OR
14 HER PERSONAL RECOGNIZANCE, UNLESS ONE OR MORE OF THE FOLLOWING
15 FACTS ARE FOUND TO BE PRESENT:

16 (a) THE ARRESTED PERSON FAILS TO SUFFICIENTLY IDENTIFY
17 HIMSELF OR HERSELF; OR

18 (b) THE ARRESTED PERSON REFUSES TO SIGN A PERSONAL
19 RECOGNIZANCE; OR

20 (c) THE CONTINUED DETENTION OR POSTING OF A SURETY BOND IS
21 NECESSARY TO PREVENT IMMINENT BODILY HARM TO THE ACCUSED OR TO
22 ANOTHER; OR

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

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

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

7 **16-4-114. Enforcement procedures for compensated sureties**

8 - **definitions.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS,
9 DETERMINES, AND DECLARES THAT THE SIMPLICITY, EFFECTIVENESS, AND
10 UNIFORMITY OF BAIL FORFEITURE PROCEDURES APPLICABLE TO
11 COMPENSATED SURETIES WHO ARE SUBJECT TO THE REGULATORY
12 AUTHORITY OF THE COLORADO DIVISION OF INSURANCE ARE MATTERS OF
13 STATEWIDE CONCERN.

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

16 (I) ADOPT A BOARD SYSTEM THAT WILL SIMPLIFY AND EXPEDITE
17 BAIL FORFEITURE PROCEDURES BY AUTHORIZING COURTS TO BAR
18 COMPENSATED SURETIES WHO FAIL TO PAY FORFEITURE JUDGMENTS FROM
19 WRITING FURTHER BONDS;

20 (II) MINIMIZE THE NEED FOR DAY-TO-DAY INVOLVEMENT OF THE
21 DIVISION OF INSURANCE IN ROUTINE FORFEITURE ENFORCEMENT; AND

22 (III) REDUCE COURT ADMINISTRATIVE WORKLOAD.

23 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
24 REQUIRES:

25 (a) "BAIL INSURANCE COMPANY" MEANS AN INSURER AS DEFINED
26 IN SECTION 10-1-102 (13), C.R.S., ENGAGED IN THE BUSINESS OF WRITING
27 APPEARANCE BONDS THROUGH BONDING AGENTS, WHICH COMPANY IS

1 SUBJECT TO REGULATION BY THE DIVISION OF INSURANCE IN THE
2 DEPARTMENT OF REGULATORY AGENCIES.

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

7 (c) "COMPENSATED SURETY" MEANS ANY PERSON WHO IS IN THE
8 BUSINESS OF WRITING APPEARANCE BONDS AND WHO IS SUBJECT TO
9 REGULATION BY THE DIVISION OF INSURANCE IN THE DEPARTMENT OF
10 REGULATORY AGENCIES, INCLUDING BONDING AGENTS AND BAIL
11 INSURANCE COMPANIES. NOTHING IN THIS PARAGRAPH (c) AUTHORIZES
12 BAIL INSURANCE COMPANIES TO WRITE APPEARANCE BONDS EXCEPT
13 THROUGH BAIL BONDING AGENTS.

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

18 (3) EACH COURT OF RECORD IN THIS STATE SHALL IMPLEMENT A
19 BOARD SYSTEM FOR THE RECORDING AND DISSEMINATION OF THE NAMES
20 OF THOSE COMPENSATED SURETIES WHO ARE PROHIBITED FROM POSTING
21 BAIL BONDS IN THE STATE DUE TO AN UNPAID JUDGMENT AS SET FORTH IN
22 THIS SECTION.

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

27 (5) LIABILITY OF BOND OBLIGORS ON BONDS ISSUED BY

1 COMPENSATED SURETIES MAY BE ENFORCED, WITHOUT THE NECESSITY OF
2 AN INDEPENDENT ACTION, AS FOLLOWS:

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

6 (b) (I) IF A BOND IS DECLARED FORFEITED BY THE COURT, NOTICE
7 OF THE BAIL FORFEITURE ORDER SHALL BE SERVED ON THE BONDING
8 AGENT BY CERTIFIED MAIL AND ON THE BAIL INSURANCE COMPANY BY
9 REGULAR MAIL WITHIN FOURTEEN DAYS AFTER THE ENTRY OF SAID
10 FORFEITURE. IF THE COMPENSATED SURETY ON THE BOND IS A CASH
11 BONDING AGENT, ONLY THE CASH BONDING AGENT SHALL BE NOTIFIED OF
12 THE FORFEITURE. SERVICE OF NOTICE OF THE BAIL FORFEITURE ON THE
13 DEFENDANT IS NOT REQUIRED.

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

16 (A) A STATEMENT INTENDED TO INFORM THE COMPENSATED
17 SURETY OF THE ENTRY OF FORFEITURE;

18 (B) AN ADVISEMENT THAT THE COMPENSATED SURETY HAS THE
19 RIGHT TO REQUEST A SHOW CAUSE HEARING PURSUANT TO SUBPARAGRAPH
20 (III) OF THIS PARAGRAPH (b) WITHIN FOURTEEN DAYS AFTER RECEIPT OF
21 NOTICE OF FORFEITURE, BY PROCEDURES SET BY THE COURT; AND

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

26 (III) A COMPENSATED SURETY, UPON WHOM NOTICE OF A BAIL
27 FORFEITURE ORDER HAS BEEN SERVED, SHALL HAVE FOURTEEN DAYS

1 AFTER RECEIPT OF NOTICE OF SUCH FORFEITURE TO REQUEST A HEARING
2 TO SHOW CAUSE WHY JUDGMENT ON THE FORFEITURE SHOULD NOT BE
3 ENTERED FOR THE STATE AGAINST THE COMPENSATED SURETY. SUCH
4 REQUEST SHALL BE GRANTED BY THE COURT AND A HEARING SHALL BE SET
5 WITHIN THIRTY-FIVE DAYS AFTER ENTRY OF FORFEITURE OR AT THE
6 COURT'S EARLIEST CONVENIENCE. AT THE CONCLUSION OF THE HEARING
7 REQUESTED BY THE COMPENSATED SURETY, IF ANY, THE COURT MAY
8 ENTER JUDGMENT FOR THE STATE AGAINST THE COMPENSATED SURETY, OR
9 THE COURT MAY IN ITS DISCRETION ORDER FURTHER HEARINGS. UPON
10 EXPIRATION OF THIRTY-FIVE DAYS AFTER THE ENTRY OF FORFEITURE, THE
11 COURT SHALL ENTER JUDGMENT FOR THE STATE AGAINST THE
12 COMPENSATED SURETY IF THE COMPENSATED SURETY DID NOT REQUEST
13 WITHIN FOURTEEN DAYS AFTER RECEIPT OF NOTICE OF SUCH FORFEITURE
14 A HEARING TO SHOW CAUSE.

15 (IV) IF SUCH A SHOW CAUSE HEARING WAS TIMELY SET BUT THE
16 HEARING DID NOT OCCUR WITHIN THIRTY-FIVE DAYS AFTER THE ENTRY OF
17 FORFEITURE, ANY ENTRY OF JUDGMENT AT THE CONCLUSION OF THE
18 HEARING AGAINST THE COMPENSATED SURETY SHALL NOT BE VACATED ON
19 THE GROUNDS THAT THE MATTER WAS NOT TIMELY HEARD. IF JUDGMENT
20 IS ENTERED AGAINST A COMPENSATED SURETY UPON THE CONCLUSION OF
21 A REQUESTED SHOW CAUSE HEARING, AND SUCH HEARING DID NOT OCCUR
22 WITHIN THIRTY-FIVE DAYS AFTER THE ENTRY OF FORFEITURE, EXECUTION
23 UPON SAID JUDGMENT SHALL BE AUTOMATICALLY STAYED FOR NO MORE
24 THAN ONE HUNDRED TWENTY-SIX DAYS AFTER ENTRY OF FORFEITURE.

25 (V) (A) IF AT ANY TIME PRIOR TO THE ENTRY OF JUDGMENT, THE
26 DEFENDANT APPEARS IN COURT, EITHER VOLUNTARILY OR IN CUSTODY
27 AFTER SURRENDER OR ARREST, THE COURT SHALL ON ITS OWN MOTION

1 DIRECT THAT THE BAIL FORFEITURE BE SET ASIDE AND THE BOND
2 EXONERATED AT THE TIME THE DEFENDANT FIRST APPEARS IN COURT;
3 EXCEPT THAT, IF THE STATE EXTRADITES SUCH DEFENDANT, ALL
4 NECESSARY AND ACTUAL COSTS ASSOCIATED WITH SUCH EXTRADITION
5 SHALL BE BORNE BY THE SURETY UP TO THE AMOUNT OF THE BOND.

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

16 (C) A COMPENSATED SURETY SHALL BE EXONERATED FROM
17 LIABILITY UPON THE BOND BY SATISFACTION OF THE BAIL FORFEITURE
18 JUDGMENT, SURRENDER OF THE DEFENDANT, OR ORDER OF THE COURT. IF
19 THE SURETY PROVIDES PROOF TO THE COURT THAT THE DEFENDANT IS IN
20 CUSTODY IN ANY OTHER JURISDICTION WITHIN THE STATE, WITHIN
21 NINETY-ONE DAYS AFTER THE ENTRY OF JUDGMENT, THE COURT SHALL ON
22 ITS OWN MOTION DIRECT THAT THE BAIL FORFEITURE JUDGMENT BE
23 VACATED AND THE BOND EXONERATED; EXCEPT THAT, IF THE COURT
24 EXTRADITES THE DEFENDANT, ALL NECESSARY AND ACTUAL COSTS
25 ASSOCIATED WITH THE EXTRADITION SHALL BE BORNE BY THE SURETY UP
26 TO THE AMOUNT OF THE BOND. IF THE COURT ELECTS TO EXTRADITE THE
27 DEFENDANT, ANY JUDGMENT WILL BE STAYED UNTIL THE TIME THE

1 DEFENDANT APPEARS IN THE COURT WHERE THE BOND RETURNS.

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

10 (d) UPON THE EXPIRATION OF THE STAY OF EXECUTION DESCRIBED
11 IN PARAGRAPH (c) OF THIS SUBSECTION (5), THE BAIL FORFEITURE
12 JUDGMENT SHALL BE PAID FORTHWITH BY THE COMPENSATED SURETY, IF
13 NOT PREVIOUSLY PAID, UNLESS THE DEFENDANT APPEARS IN COURT,
14 EITHER VOLUNTARILY OR IN CUSTODY AFTER SURRENDER OR ARREST, OR
15 THE COURT ENTERS AN ORDER GRANTING AN ADDITIONAL STAY OF
16 EXECUTION OR OTHERWISE VACATES THE JUDGMENT.

17 (e) IF A BAIL FORFEITURE JUDGMENT IS NOT PAID ON OR BEFORE
18 THE EXPIRATION DATE OF THE STAY OF EXECUTION DESCRIBED IN
19 PARAGRAPH (c) OF THIS SUBSECTION (5), THE NAME OF THE BONDING
20 AGENT SHALL BE PLACED ON THE BOARD OF THE COURT THAT ENTERED
21 THE JUDGMENT. THE BONDING AGENT SHALL BE PROHIBITED FROM
22 EXECUTING ANY FURTHER BAIL BONDS IN THIS STATE UNTIL THE
23 JUDGMENT GIVING RISE TO PLACEMENT ON THE BOARD IS SATISFIED,
24 VACATED, OR OTHERWISE DISCHARGED BY ORDER OF THE COURT.

25 (f) IF A BAIL FORFEITURE JUDGMENT REMAINS UNPAID FOR
26 THIRTY-FIVE DAYS AFTER THE NAME OF THE BONDING AGENT IS PLACED ON
27 THE BOARD, THE COURT SHALL SEND NOTICE BY CERTIFIED MAIL TO THE

1 BAIL INSURANCE COMPANY FOR WHOM THE BONDING AGENT HAS
2 EXECUTED THE BOND THAT IF SAID JUDGMENT IS NOT PAID WITHIN
3 FOURTEEN DAYS AFTER THE DATE OF MAILING OF SAID NOTICE, THE NAME
4 OF THE BAIL INSURANCE COMPANY SHALL BE PLACED ON THE BOARD AND
5 SUCH COMPANY SHALL BE PROHIBITED FROM EXECUTING ANY FURTHER
6 BAIL BONDS IN THIS STATE UNTIL THE JUDGMENT GIVING RISE TO
7 PLACEMENT ON THE BOARD IS SATISFIED, VACATED, OR OTHERWISE
8 DISCHARGED BY ORDER OF THE COURT.

9 (g) A COMPENSATED SURETY SHALL BE REMOVED FORTHWITH
10 FROM THE BOARD ONLY AFTER EVERY JUDGMENT FOR WHICH THE
11 COMPENSATED SURETY WAS PLACED ON THE BOARD IS SATISFIED,
12 VACATED, OR DISCHARGED OR STAYED BY ENTRY OF AN ADDITIONAL STAY
13 OF EXECUTION. NO COMPENSATED SURETY SHALL BE PLACED ON THE
14 BOARD IN THE ABSENCE OF THE NOTICE REQUIRED BY PARAGRAPH (b) OR
15 (f) OF THIS SUBSECTION (5).

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

20 (i) A COMPENSATED SURETY SHALL BE EXONERATED FROM
21 LIABILITY UPON THE BOND BY SATISFACTION OF THE BAIL FORFEITURE
22 JUDGMENT, SURRENDER OF THE DEFENDANT, OR BY ORDER OF THE COURT.
23 IF THE DEFENDANT APPEARS IN COURT, EITHER VOLUNTARILY OR IN
24 CUSTODY AFTER SURRENDER OR ARREST, WITHIN NINETY-ONE DAYS AFTER
25 THE ENTRY OF JUDGMENT, THE COURT, AT THE TIME THE DEFENDANT FIRST
26 APPEARS IN COURT, SHALL ON ITS OWN MOTION DIRECT THAT THE BAIL
27 FORFEITURE JUDGMENT BE VACATED AND THE BOND EXONERATED;

1 EXCEPT THAT, IF THE STATE EXTRADITES SUCH DEFENDANT, ALL
2 NECESSARY AND ACTUAL COSTS ASSOCIATED WITH SUCH EXTRADITION
3 SHALL BE BORNE BY THE SURETY UP TO THE AMOUNT OF THE BOND.

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

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

21 (l) THE AUTOMATIC STAY OF EXECUTION UPON A BAIL FORFEITURE
22 JUDGMENT AS DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION (5)
23 SHALL EXPIRE PURSUANT TO ITS TERMS UNLESS THE DEFENDANT APPEARS
24 AND SURRENDERS TO THE COURT HAVING JURISDICTION OR SATISFIES THE
25 COURT THAT APPEARANCE AND SURRENDER BY THE DEFENDANT WAS
26 IMPOSSIBLE AND WITHOUT FAULT BY SUCH DEFENDANT. THE COURT MAY
27 ORDER THAT A FORFEITURE BE SET ASIDE AND JUDGMENT VACATED AS SET

1 FORTH IN PARAGRAPH (h) OF THIS SUBSECTION (5).

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

4 **16-4-115. Severability.** IF ANY PROVISION OF THIS PART (1) OR THE
5 APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD
6 INVALID, SUCH INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR
7 APPLICATIONS OF THIS PART (1) THAT CAN BE GIVEN EFFECT WITHOUT THE
8 INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF
9 PART (1) ARE DECLARED TO BE SEVERABLE.

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

12 **16-4-201. Bail after conviction.** (1) (a) After conviction, either
13 before or after sentencing, the defendant may orally, or in writing, move
14 for release on bail pending determination of a motion for a new trial or
15 motion in arrest of judgment or during any stay of execution or pending
16 review by an appellate court, and, except in cases where the defendant has
17 been convicted of a capital offense, the trial court, in its discretion, may
18 continue the bond given for pretrial release, or may release the defendant
19 on ~~increased-bail~~ BOND WITH ADDITIONAL CONDITIONS INCLUDING
20 MONETARY CONDITIONS, or require bond under one or more of the
21 alternatives set forth in section 16-4-104.

22 **SECTION 4.** In Colorado Revised Statutes, 16-4-202, **amend** (1)
23 introductory portion as follows:

24 **16-4-202. Appeal bond hearing - factors to be considered.**
25 (1) The court shall consider the following factors in deciding whether or
26 not an appeal bond should be granted and determining ~~the amount of bail~~
27 ~~and~~ the type of bond ~~to be~~ AND CONDITIONS OF RELEASE required:

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SECTION 5. In Colorado Revised Statutes, 10-1-211, **amend** (6)

as follows:

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

SECTION 6. In Colorado Revised Statutes, 10-2-705, **add** (3.5)

as follows:

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

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

DISCLOSURE OF LIEN AGAINST REAL PROPERTY

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

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

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

1 (II) IN A CLEAR AND CONSPICUOUS STATEMENT ON THE FACE OF
2 THE APPLICATION.

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

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

1 PETITION THE DISTRICT COURT TO ISSUE AN ORDER DIRECTING THE CLERK
2 OF SUCH COURT TO EXECUTE A FULL RECONVEYANCE OF TITLE, A
3 CERTIFICATE OF DISCHARGE, OR A FULL RELEASE OF ANY LIEN AGAINST
4 REAL PROPERTY CREATED TO SECURE PERFORMANCE OF THE CONDITIONS
5 OF THE BAIL BOND. THE PETITION SHALL BE VERIFIED AND SHALL ALLEGE
6 FACTS SHOWING THAT THE BONDING AGENT HAS FAILED TO COMPLY WITH
7 THE PROVISIONS OF THIS PARAGRAPH (d).

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

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

17 **10-23-101. Definitions.** As used in this article, unless the context
18 otherwise requires:

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

22 **SECTION 8.** In Colorado Revised Statutes, 10-23-105, **amend**
23 (1) and (2) as follows:

24 **10-23-105. Qualification bond - forfeiture.** (1) Each
25 cash-bonding agent shall post a cash qualification bond of fifty thousand
26 dollars with the division. The bond must be to the people of the state of
27 Colorado in favor of any court in this state, whether municipal, county,

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

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

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

27 **10-23-108. Bail bond documents - requirements - rules.**

1 (3.5) (a) IF THE BOND IS TO BE SECURED BY REAL ESTATE, THE BAIL
2 BONDING AGENT SHALL PROVIDE THE PROPERTY OWNER WITH A WRITTEN
3 DISCLOSURE STATEMENT IN THE FOLLOWING FORM AT THE TIME AN INITIAL
4 APPLICATION IS FILED:

5 **DISCLOSURE OF LIEN AGAINST REAL PROPERTY**

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

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

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

18 (II) IN A CLEAR AND CONSPICUOUS STATEMENT ON THE FACE OF
19 THE APPLICATION.

20 (c) BEFORE A PROPERTY OWNER EXECUTES ANY INSTRUMENT
21 CREATING A LIEN AGAINST REAL PROPERTY, THE BAIL BONDING AGENT
22 SHALL PROVIDE THE PROPERTY OWNER WITH A COMPLETED COPY OF THE
23 INSTRUMENT CREATING THE LIEN AGAINST REAL PROPERTY AND THE
24 DISCLOSURE STATEMENT DESCRIBED IN PARAGRAPH (a) OF THIS
25 SUBSECTION (3.5). IF A BAIL BONDING AGENT FAILS TO COMPLY FULLY
26 WITH THE REQUIREMENTS OF PARAGRAPHS (a) AND (b) OF THIS
27 SUBSECTION (3.5) AND THIS PARAGRAPH (c), ANY INSTRUMENT CREATING

1 A LIEN AGAINST REAL PROPERTY SHALL BE VOIDABLE.

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

25 (e) ANY BAIL BONDING AGENT WHO VIOLATES THIS SUBSECTION
26 (3.5) SHALL BE LIABLE TO THE PROPERTY OWNER FOR ALL DAMAGES THAT
27 MAY BE SUSTAINED BY REASON OF THE VIOLATION, PLUS STATUTORY

1 DAMAGES IN THE SUM OF THREE HUNDRED DOLLARS. THE PROPERTY
2 OWNER SHALL BE ENTITLED TO RECOVER COURT COSTS AND REASONABLE
3 ATTORNEY FEES, AS DETERMINED BY THE COURT, UPON PREVAILING IN ANY
4 ACTION BROUGHT TO ENFORCE THE PROVISIONS OF THIS SUBSECTION (3.5).

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

7 **18-13-130. Bail bond - prohibited activities - penalties.** (1) It
8 is unlawful for any person who engages in the business of writing bail
9 bonds to engage in any of the following activities related to a bail bond
10 transaction:

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

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

18 **19-2-509. Bail.** (4) (a) In determining ~~the amount of bail and the~~
19 ~~type of bond to be furnished by~~ AND CONDITIONS OF RELEASE FOR the
20 juvenile, the judge or magistrate fixing the same shall consider the criteria
21 set forth in section ~~16-4-105 (1)~~ 16-4-103, C.R.S.

22 **SECTION 12. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.