

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0774.01 Michael Dohr x4347

**HOUSE BILL 14-1261**

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**HOUSE SPONSORSHIP**

**Wright,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING PRETRIAL RELEASE.**

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**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>.)*

Current law allows listed entities electronic read-only access to the name index and register of actions of public case types. The bill adds bonding agents to the list.

The bill limits a court's authority to determining the amount of the bond and gives the defendant the ability to choose how to satisfy the bond. The bill limits the court's authority to release a person on personal recognizance bond (PR bond). The court may not issue a PR bond if the

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.

person failed to appear on a felony or class 1 misdemeanor in the last 5 years or fails to appear while on bond for a felony or class 1 misdemeanor or if the court does not have sufficient information to make an intelligent decision regarding issuing a PR bond.

The bill sets the following specific bond amounts for the following crimes:

- ! \$10,000 for driving under restraint with a prior DUI;
- ! \$50,000 for vehicular eluding while driving under the influence; and
- ! \$50,000 for felony drug distribution.

A pretrial supervision program that supervises a defendant who has also been released on a bond with a bond posted by a compensated surety shall notify the surety, within 2 business days, of any violations or potential violations of bond or supervision conditions discovered by the pretrial supervision program or if the pretrial supervision program intends to request bond revocation.

The bill requires the court to order the compensated surety who posted a bond to return all premiums paid by the defendant, and the county or agency to refund all pretrial supervision costs or fees, if, within 14 days of posting the bond for the defendant, all charges related to the bond are dismissed by the court or no charges are filed against the defendant.

Under current law, a defendant's bond deposit may be used to cover the court costs. The bill repeals this provision.

The bill directs the Colorado commission on criminal and juvenile justice to complete a comprehensive study of county pretrial services programs.

The bill creates a criminal affirmative defense for bail bond agents who perform their work in a reasonable manner.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-4-103, **amend** (1)

3 as follows:

4 **16-4-103. Setting and selection type of bond - criteria.** (1) At

5 the first appearance of a person in custody before a court of record ANY

6 COURT OR ANY PERSON DESIGNATED BY THE COURT TO SET BOND, the

7 court OR PERSON shall determine the type of bond and conditions of

8 release unless the person is subject to the provisions of section 16-4-101.

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

3           **16-4-104. Types of bond set by the court.** (1) The court shall  
4 determine, after consideration of all relevant criteria, which of the  
5 following types of bond is appropriate for the pretrial release of a person  
6 in custody, subject to the relevant statutory conditions of release listed in  
7 section 16-4-105. The person may be released upon execution of:

8           (c) A bond with secured monetary conditions when reasonable  
9 and necessary to ensure the appearance of the person in court or the safety  
10 of any person or persons or the community. The financial conditions shall  
11 state an amount of money that the person must post with the court in  
12 order for the person to be released. The person may be released from  
13 custody upon execution of bond in the full amount of money to be  
14 secured ~~in~~ BY any one of the following ~~ways~~ METHODS, AS SELECTED BY  
15 THE PERSON TO BE RELEASED, UNLESS THE COURT SPECIFICALLY FINDS  
16 THAT A CERTAIN METHOD IS REASONABLE AND NECESSARY TO ENSURE THE  
17 APPEARANCE OF THE PERSON IN COURT OR THE SAFETY OF ANY PERSON,  
18 PERSONS, OR THE COMMUNITY:

19           **SECTION 3.** In Colorado Revised Statutes, 16-4-106, **amend** (4)  
20 (c); and **add** (8) as follows:

21           **16-4-106. Pretrial services programs.** (4) Any pretrial services  
22 program approved pursuant to this section must meet the following  
23 criteria:

24           (c) The program, in conjunction with the community advisory  
25 board, must make all reasonable efforts to implement an empirically  
26 developed pretrial risk assessment tool, TO BE USED BY THE PROGRAM,  
27 THE COURT, AND THE PARTIES TO THE CASE SOLELY FOR THE PURPOSE OF

1 ASSESSING PRETRIAL RISK, and a structured decision-making design based  
2 upon the person's charge and the risk assessment score; AND

3 (8) THE PROGRAM SHALL NOTIFY THE DEFENSE COUNSEL OF  
4 RECORD, IF ANY, IF THE PROGRAM FILES A REPORT OR REQUEST WITH THE  
5 COURT OR THE DISTRICT ATTORNEY TO REVOKE OR IMPOSE ADDITIONAL  
6 CONDITIONS OF BOND OR RELEASE FOR A SUPERVISED DEFENDANT.

7 **SECTION 4.** In Colorado Revised Statutes, 16-4-109, **amend** (4)  
8 (a) as follows:

9 **16-4-109. Reduction or increase of monetary conditions of**  
10 **bond - change in type of bond or conditions of bond - definitions.**

11 (4) (a) Upon verified application by the district attorney or a bonding  
12 commissioner stating facts or circumstances constituting a breach or a  
13 threatened breach of any of the conditions of the bond, the court may  
14 issue a warrant commanding any peace officer to bring the defendant  
15 without unnecessary delay before the court for a hearing on the matters  
16 set forth in the application. Upon issuance of the warrant, the bonding  
17 commissioner, OR THE COURT IF THERE IS NO BONDING COMMISSIONER  
18 APPOINTED IN THE JURISDICTION, shall notify the bail bond agent of record  
19 by electronic mail to the agent if available within twenty-four hours or by  
20 certified mail not more than fourteen days after the warrant is issued. At  
21 the conclusion of the hearing, the court may enter an order authorized by  
22 subsection (1) of this section. If a bonding commissioner files an  
23 application for a hearing pursuant to this subsection (4), the bonding  
24 commissioner shall notify the district attorney, for the jurisdiction in  
25 which the application is made, of the application within twenty-four hours  
26 following the filing of the application.

27 **SECTION 5.** In Colorado Revised Statutes, 16-4-110, **amend** (2)

1 as follows:

2 **16-4-110. Exoneration from bond liability.** (2) If, within  
3 fourteen days after the posting of a bond by a defendant, the terms and  
4 conditions of said bond are changed or altered either by order of court or  
5 upon the motion of the district attorney or the defendant, the court, after  
6 a hearing, may order a compensated surety to refund a portion of the  
7 premium paid by the defendant, if necessary, to prevent unjust  
8 enrichment. THE COMPENSATED SURETY MAY FILE WITH THE COURT, IN  
9 WRITING, AT LEAST SEVEN DAYS PRIOR TO THE HEARING A STATEMENT OF  
10 TIME, EXPOSURE TO RISK, EXPENSES, OR OTHER COSTS INCURRED BY THE  
11 COMPENSATED SURETY WITH RESPECT TO THE POSTING OF THE BOND. If  
12 more than fourteen days have elapsed after posting of a bond by a  
13 defendant, the court shall not order the refund of any premium.

14 **SECTION 6.** In Colorado Revised Statutes, 16-4-111, **amend** (1)  
15 (b) (I) and (3) as follows:

16 **16-4-111. Disposition of security deposits upon forfeiture or**  
17 **termination of bond.** (1) (b) (I) Notwithstanding the provisions of  
18 paragraph (a) of this subsection (1), if the depositor of the cash bond is  
19 the defendant and the defendant owes court costs, fees, fines, restitution,  
20 or surcharges at the time the defendant is discharged from all liability  
21 under the terms of the bond, the court may apply the deposit toward any  
22 amount owed by the defendant in court costs, fees, fines, restitution, or  
23 surcharges, IF THE DEFENDANT AGREES IN WRITING TO THE USE OF THE  
24 DEPOSIT FOR THAT PURPOSE. If any amount of the deposit remains after  
25 paying the defendant's outstanding court costs, fees, fines, restitution, or  
26 surcharges, the court shall return the remainder of the deposit to the  
27 defendant.

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

21           **SECTION 7. Effective date - applicability.** This act takes effect  
22 July 1, 2014, and applies to arrests made or charges filed on or after said  
23 date.

24           **SECTION 8. Safety clause.** The general assembly hereby finds,  
25 determines, and declares that this act is necessary for the immediate  
26 preservation of the public peace, health, and safety.