

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 20, 2014
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB14-1261 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 16-4-103, **amend**
4 (1) as follows:

5 **16-4-103. Setting and selection type of bond - criteria.** (1) At
6 the first appearance of a person in custody before ~~a court of record~~ ANY
7 COURT OR ANY PERSON DESIGNATED BY THE COURT TO SET BOND, the
8 court OR PERSON shall determine the type of bond and conditions of
9 release unless the person is subject to the provisions of section 16-4-101.

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

12 **16-4-104. Types of bond set by the court.** (1) The court shall
13 determine, after consideration of all relevant criteria, which of the
14 following types of bond is appropriate for the pretrial release of a person
15 in custody, subject to the relevant statutory conditions of release listed in
16 section 16-4-105. The person may be released upon execution of:

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

1 THAT A CERTAIN METHOD IS REASONABLE AND NECESSARY TO ENSURE THE
2 APPEARANCE OF THE PERSON IN COURT OR THE SAFETY OF ANY PERSON,
3 PERSONS, OR THE COMMUNITY:

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

6 **16-4-106. Pretrial services programs.** (4) Any pretrial services
7 program approved pursuant to this section must meet the following
8 criteria:

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

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

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

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

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

39 **SECTION 5.** In Colorado Revised Statutes, 16-4-110, **amend** (2)
40 as follows:

41 **16-4-110. Exoneration from bond liability.** (2) If, within
42 fourteen days after the posting of a bond by a defendant, the terms and

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

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

13 **16-4-111. Disposition of security deposits upon forfeiture or**
14 **termination of bond.** (1) (b) (I) Notwithstanding the provisions of
15 paragraph (a) of this subsection (1), if the depositor of the cash bond is
16 the defendant and the defendant owes court costs, fees, fines, restitution,
17 or surcharges at the time the defendant is discharged from all liability
18 under the terms of the bond, the court may apply the deposit toward any
19 amount owed by the defendant in court costs, fees, fines, restitution, or
20 surcharges, IF THE DEFENDANT AGREES IN WRITING TO THE USE OF THE
21 DEPOSIT FOR THAT PURPOSE. If any amount of the deposit remains after
22 paying the defendant's outstanding court costs, fees, fines, restitution, or
23 surcharges, the court shall return the remainder of the deposit to the
24 defendant.

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

1 deposit remains after the payment of costs, it shall be applied to payment
2 of the judgment.

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

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

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