

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REREVISED

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

LLS NO. 14-1072.01 Michael Dohr x4347

SENATE BILL 14-212

SENATE SPONSORSHIP

Ulibarri,

HOUSE SPONSORSHIP

Lee,

Senate Committees
Judiciary

House Committees
Judiciary

HOUSE
3rd Reading Unamended
May 3, 2014

A BILL FOR AN ACT

101 **CONCERNING CLARIFYING CHANGES TO THE PROVISIONS RELATED TO**
102 **BEST PRACTICES IN BOND SETTING.**

HOUSE
2nd Reading Unamended
May 2, 2014

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>.)

SENATE
3rd Reading Unamended
May 1, 2014

Last year, the general assembly adopted Senate Bill 13-1236, which recodified the procedures related to bail bond. The bill makes clarifying and conforming changes to the statutes based on last year's legislation.

SENATE
Amended 2nd Reading
April 30, 2014

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, 16-4-103, **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.

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

11 **16-4-104. Types of bond set by the court.** (1) The court shall
12 determine, after consideration of all relevant criteria, which of the
13 following types of bond is appropriate for the pretrial release of a person
14 in custody, subject to the relevant statutory conditions of release listed in
15 section 16-4-105. The person may be released upon execution of:

16 (c) A bond with secured monetary conditions when reasonable
17 and necessary to ensure the appearance of the person in court or the safety
18 of any person or persons or the community. The financial conditions shall
19 state an amount of money that the person must post with the court in
20 order for the person to be released. The person may be released from
21 custody upon execution of bond in the full amount of money to be
22 secured ~~in~~ BY any one of the following ~~ways~~ METHODS, AS SELECTED BY
23 THE PERSON TO BE RELEASED, UNLESS THE COURT MAKES FACTUAL
24 FINDINGS ON THE RECORD WITH RESPECT TO THE PERSON TO BE RELEASED
25 THAT A CERTAIN METHOD OF BOND, AS SELECTED BY THE COURT, IS
26 NECESSARY TO ENSURE THE APPEARANCE OF THE PERSON IN COURT OR THE

1 SAFETY OF ANY PERSON, PERSONS, OR THE COMMUNITY:

2 **SECTION 3.** In Colorado Revised Statutes, 16-4-105, **amend** (4)
3 as follows:

4 **16-4-105. Conditions of release on bond.** (4) An additional
5 condition of every bond in cases of domestic violence as defined in
6 section 18-6-800.3 (1), C.R.S., OR IN CASES OF STALKING UNDER SECTION
7 18-3-602, C.R.S., is that the released person acknowledge the protection
8 order as provided in section 18-1-1001 (5), C.R.S.

9 **SECTION 4.** In Colorado Revised Statutes, 16-4-106, **amend** (4)
10 (c) as follows:

11 **16-4-106. Pretrial services programs.** (4) Any pretrial services
12 program approved pursuant to this section must meet the following
13 criteria:

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

20 **SECTION 5.** In Colorado Revised Statutes, **amend** 16-4-107 as
21 follows:

22 **16-4-107. Hearing after setting of monetary conditions of**
23 **bond.** (1) (a) If a person is in custody and the court imposed a monetary
24 CONDITION OF bond for release, and the person, after seven days from the
25 setting of the monetary CONDITION OF bond, is unable to meet the
26 monetary obligations of the bond, the person may file a written motion for
27 reconsideration of the monetary conditions of the bond. The person may

1 only file the written motion PURSUANT TO THIS SECTION ONE TIME DURING
2 THE PENDENCY OF THE CASE AND MAY ONLY FILE THE WRITTEN MOTION
3 if he or she believes that, upon presentation of evidence not fully
4 considered by the court, he or she is entitled to a personal recognizance
5 bond or an unsecured bond with conditions of release or a change in the
6 monetary conditions of bond. The court shall promptly conduct a hearing
7 on this motion for reconsideration, but the hearing must be held within
8 fourteen days after the filing of the motion. However, the court may
9 summarily deny the motion if the court finds that there is no additional
10 evidence not fully considered by the court presented in the written
11 motion. In considering the motion, the court shall consider the results of
12 any empirically developed risk assessment instrument.

13 (b) NOTHING IN THIS SECTION SHALL PRECLUDE A PERSON FROM
14 FILING A MOTION FOR RELIEF FROM A MONETARY CONDITION OF BOND
15 PURSUANT TO SECTION 16-4-109 AT ANY TIME DURING THE PENDENCY OF
16 THE CASE.

17 **SECTION 6. In Colorado Revised Statutes, 16-4-110, amend (2)**
18 **as follows:**

19 **16-4-110. Exoneration from bond liability. (2) If, within**
20 **fourteen days after the posting of a bond by a defendant, the terms and**
21 **conditions of said THE bond are changed or altered either by order of**
22 **court or upon the motion of the district attorney or the defendant, the**
23 **court, after a hearing, may order a compensated surety to refund a portion**
24 **of the premium paid by the defendant, if necessary AND SUPPORTED BY**
25 **FACTUAL FINDINGS, to prevent unjust enrichment. If more than fourteen**
26 **days have elapsed after posting of a bond by a defendant, the court shall**
27 **not order the refund of any premium.**

1 **SECTION 7.** In Colorado Revised Statutes, 16-4-111, **amend** (3)
2 as follows:

3 **16-4-111. Disposition of security deposits upon forfeiture or**
4 **termination of bond.** (3) ~~Where~~ WHEN the defendant has been released
5 upon deposit of cash ~~stocks, bonds,~~ or property, UPON AN UNSECURED
6 PERSONAL RECOGNIZANCE BOND WITH A MONETARY CONDITION PURSUANT
7 TO SECTION 16-4-104 (1) (a) OR (1) (b), or upon a surety bond secured by
8 property, if the defendant fails to appear in accordance with the primary
9 condition of the bond, the court shall declare a forfeiture. Notice of the
10 order of forfeiture shall be mailed by the court to the defendant, all
11 sureties, and all depositors or assignees of any deposits of cash or
12 property if such sureties, depositors, or assignees have direct contact with
13 the court, at their last-known addresses. Such notice shall be sent within
14 fourteen days after the entry of the order of forfeiture. If the defendant
15 does not appear and surrender to the court having jurisdiction within
16 thirty-five days from the date of the forfeiture or within that period satisfy
17 the court that appearance and surrender by the defendant is impossible
18 and without fault by such defendant, the court may enter judgment for the
19 state against the defendant for the amount of the bond and costs of the
20 court proceedings. Any cash deposits made with the clerk of the court
21 shall be applied to the payment of costs. If any amount of such cash
22 deposit remains after the payment of costs, it shall be applied to payment
23 of the judgment.

24 **SECTION 8.** In Colorado Revised Statutes, 18-3-602, **amend** (8)
25 (a) as follows:

26 **18-3-602. Stalking - penalty - definitions - Vonnie's law.**
27 (8) (a) When a person is arrested for an alleged violation of this section,

1 the fixing of bail for the crime of stalking shall be done in accordance
2 with section ~~16-4-103(2)(d)~~, 16-4-105 (4), C.R.S., and a protection order
3 shall issue in accordance with section 18-1-1001(5).

4 **SECTION 9. Effective date.** This act takes effect July 1, 2014.

5 **SECTION 10. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.