

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

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 01-0959.01 Jeff Conway

**HOUSE BILL 01-1392**

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**HOUSE SPONSORSHIP**

**Dean, Clapp, and Decker**

**SENATE SPONSORSHIP**

**Taylor,**

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**House Committees**

Criminal Justice

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING PRETRIAL RELEASE FOR DEFENDANTS, AND, IN**  
102             **CONNECTION THEREWITH, PROHIBITING RELEASE UNDER THE**  
103             **PRETRIAL SERVICES PROGRAM IN CERTAIN CIRCUMSTANCES,**  
104             **DELETING PROVISIONS THAT ALLOW DISTRICT ATTORNEYS TO**  
105             **CONSENT TO THE RELEASE OF DEFENDANTS IN CERTAIN**  
106             **CIRCUMSTANCES, AND ADDING NEW CRITERIA TO BE USED BY**  
107             **COURTS IN FIXING OF BAIL AND CONDITIONS OF BOND.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Requires release of a defendant upon a bail bond only when 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.*

HOUSE  
3rd Reading Unamended  
May 1, 2001

HOUSE  
Amended 2nd Reading  
April 30, 2001

bond is secured by a bail bonding agent or a cash agent qualified to write bail bonds. Prohibits a judge from altering a bail amount based on the type of bond or security used, except for a security by a bail bond agent or a cash agent qualified to write bail bonds. Prohibits a judge from releasing a defendant upon the payment of an amount less than the total amount of the bail.

Adds the release of a defendant under a pretrial services program to the current prohibition of the release of a defendant on personal recognizance if the defendant:

- Is free on another bond for a felony or class 1 misdemeanor;
- Has been convicted of a class 1 misdemeanor within the preceding 2 years or a felony within the preceding 5 years;
- Failed to appear on bond on felony or class 1 misdemeanor charges in the preceding 5 years;
- Is on release under surety bond for felony or class 1 misdemeanor charges and the surety has not been given an opportunity to surrender the person into custody; or
- Fails to appear while free on bond on a felony or a class 1 misdemeanor charge and is subsequently arrested.

Deletes the provisions that permit a district attorney to consent to the release of a defendant on bond if the defendant:

- Is free on another bond for a felony or class 1 misdemeanor;
- Has been convicted of a class 1 misdemeanor within the preceding 2 years or a felony within the preceding 5 years; or
- Failed to appear on bond on felony or class 1 misdemeanor charges in the preceding 5 years.

Adds 2 new criteria to the list of statutory criteria to be used by the court in fixing bail and conditions of bond:

- If the court has authorized release on a surety bond, prohibits conditioning of the bond or release on the use of a pretrial services program or its conditions; or
- If the defendant is obligated on another surety bond in another pending case, prohibits conditioning of the bond or release on the use of a pretrial services program or its conditions.

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

2 **SECTION 1. Legislative declaration.** The general assembly  
3 hereby finds, determines, and declares that certain modifications to the  
4 statutes concerning bail bond procedures and adult pretrial services

1 programs are necessary. The general assembly further finds and declares  
2 that the juvenile bail bonding statutes contain a cross-reference to the  
3 adult bail bonding statutes. It is the intent of the general assembly,  
4 however, that any modifications contained in this act apply only to the  
5 bail bond procedures involving adult pretrial services programs.

6 **SECTION 2.** The introductory portion to 16-4-104 (1) (b),  
7 Colorado Revised Statutes, is amended, and the said 16-4-104 is further  
8 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

9 **16-4-104. Bail bond - alternatives.** (1) When the amount of bail  
10 is fixed by the judge of a court of record, the judge shall also determine  
11 which of the following kinds of bond shall be required for the pretrial  
12 release of the defendant:

13 (b) The defendant may be released from custody upon execution  
14 of bond in the full amount of the bail to be secured BY A BAIL BONDING  
15 AGENT OR A CASH AGENT QUALIFIED TO WRITE BAIL BONDS PURSUANT TO  
16 ARTICLE 7 OF TITLE 12, C.R.S., OR in any one or more, or any combination  
17 of, the following ways:

18 [REDACTED]  
19 (4) (a) THE JUDGE MAY NOT ALTER THE AMOUNT OF THE BAIL  
20 BASED ON THE TYPE OF BOND OR SECURITY USED. [REDACTED]

21 (b) A JUDGE MAY NOT AUTHORIZE RELEASE OF THE DEFENDANT  
22 UPON THE PAYMENT OF ANY AMOUNT LESS THAN THE TOTAL AMOUNT OF  
23 THE BAIL.

24 **SECTION 3.** 16-4-105 [REDACTED] (1) (n.5), (1) (p), and (1) (p.5),  
25 Colorado Revised Statutes, are amended [REDACTED]  
26 to read:

27 **16-4-105. Selection by judge of the amount of bail and type of**

1 **bond - criteria.** (1) In determining the amount of bail and the type of  
2 bond to be furnished by the defendant, the judge fixing the same shall  
3 consider and be governed by the following criteria:

4 [REDACTED]  
5 (n.5) Unless the district attorney consents, no person who is  
6 eighteen years of age or older or is being charged as an adult pursuant to  
7 section 19-2-517, C.R.S., or transferred to the district court pursuant to  
8 section 19-2-518, C.R.S., shall be released on personal recognizance OR  
9 PURSUANT TO A PRETRIAL SERVICES PROGRAM ESTABLISHED PURSUANT TO  
10 SUBSECTION (3) OF THIS SECTION if the person's criminal record indicates  
11 that he or she failed to appear on bond in any case involving a felony or  
12 class 1 misdemeanor charge in the preceding five years;

13 (p) No person shall be released on personal recognizance OR  
14 PURSUANT TO A PRETRIAL SERVICES PROGRAM ESTABLISHED PURSUANT TO  
15 SUBSECTION (3) OF THIS SECTION if, at the time of such application, the  
16 person is presently on release under surety bond for felony or class 1  
17 misdemeanor charges unless the surety thereon is notified and afforded an  
18 opportunity to surrender the person into custody on such terms as the  
19 judge deems just under the provisions of section 16-4-108;

20 (p.5) Any defendant who fails to appear while free on bond in  
21 conjunction with a class 1 misdemeanor or a felony and who is  
22 subsequently arrested shall not be eligible for a personal recognizance  
23 bond OR FOR A BOND RELATING TO RELEASE PURSUANT TO A PRETRIAL  
24 SERVICES PROGRAM ESTABLISHED PURSUANT TO SUBSECTION (3) OF THIS  
25 SECTION for that case in which such defendant failed to appear; except  
26 that THE COURT MAY GRANT SUCH BOND if the defendant can provide  
27 satisfactory WRITTEN evidence to the court that the failure to appear was

1 due to circumstances or events beyond the control of the defendant; ~~the~~  
2 ~~court shall have the discretion to grant a personal recognizance bond;~~

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4 **SECTION 4. Safety clause.** The general assembly hereby finds,  
5 determines, and declares that this act is necessary for the immediate  
6 preservation of the public peace, health, and safety.