

## CHAPTER 379

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 17-1369**

BY REPRESENTATIVE(S) Pabon, Arndt, Becker K., Benavidez, Covarrubias, Ginal, Gray, Herod, Hooton, Kennedy, Melton, Pettersen, Rosenthal, Salazar, Valdez;  
also SENATOR(S) Marble, Aguilar, Kagan.

**AN ACT****CONCERNING BOND PROCEDURES FOR PERSONS NOT APPEARING IN COURT DUE TO IMMIGRATION-RELATED ISSUES.**

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

**SECTION 1. Short title.** This act is known as the "Bond Surety Protection Act".

**SECTION 2.** In Colorado Revised Statutes, 16-4-110, **add** (1)(f) as follows:

**16-4-110. Exoneration from bond liability.** (1) Any person executing a bail bond as principal or as surety shall be exonerated as follows:

(f) (I) WHEN THE SURETY PROVIDES SATISFACTORY EVIDENCE TO THE COURT THAT THE DEFENDANT HAS BEEN REMOVED FROM THE COUNTRY. THE COURT SHALL EXONERATE THE BAIL BOND IF ALL OF THE FOLLOWING OCCUR:

(A) THE SURETY FILES A MOTION REQUESTING EXONERATION OF THE BAIL BOND;

(B) THE SURETY FILES AN AFFIDAVIT ALONG WITH THE MOTION STATING THAT THE SURETY HAS RECEIVED INFORMATION FROM THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, OR A FOREIGN CONSULATE THAT THE DEFENDANT HAS BEEN DETAINED OR REMOVED FROM THE UNITED STATES. IF THE SURETY IS UNABLE TO OBTAIN SUCH INFORMATION FROM THE ABOVE SOURCES, THE SURETY MUST FILE AN AFFIDAVIT THAT IS SIGNED UNDER PENALTY OF PERJURY BY A PERSON WITH PERSONAL KNOWLEDGE THAT THE DEFENDANT HAS BEEN DETAINED OR REMOVED FROM THE UNITED STATES.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(C) THE DISTRICT ATTORNEY DOES NOT OBJECT.

(II) IF THE COURT EXONERATES THE LIABILITY ON THE BAIL BOND PURSUANT TO SUBSECTION (1)(f)(I) OF THIS SECTION AND THE BOND PREMIUM HAS BEEN PAID, ANY COLLATERAL SECURING THE BAIL BOND IS RELEASED.

**SECTION 3.** In Colorado Revised Statutes, 16-4-114, **add** (5)(b)(VI) and (5)(b)(VII) as follows:

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

(5) Liability of bond obligors on bonds issued by compensated sureties may be enforced, without the necessity of an independent action, as follows:

(b) (VI) A COMPENSATED SURETY SHALL BE EXONERATED FROM LIABILITY UPON THE BOND WHEN THE SURETY PROVIDES SATISFACTORY EVIDENCE TO THE COURT THAT THE DEFENDANT HAS BEEN REMOVED FROM THE COUNTRY PURSUANT ACTION BY A FEDERAL IMMIGRATION AGENCY WHILE ON BOND. THE COURT SHALL EXONERATE THE BAIL BOND IF ALL OF THE FOLLOWING OCCUR:

(A) THE COMPENSATED SURETY FILES A MOTION REQUESTING EXONERATION OF THE BAIL BOND;

(B) THE COMPENSATED SURETY FILES AN AFFIDAVIT ALONG WITH THE MOTION STATING THAT THE COMPENSATED SURETY HAS RECEIVED INFORMATION FROM THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, OR A FOREIGN CONSULATE THAT THE DEFENDANT HAS BEEN DETAINED OR REMOVED FROM THE UNITED STATES. IF THE COMPENSATED SURETY IS UNABLE TO OBTAIN SUCH INFORMATION FROM THE ABOVE SOURCES, THE COMPENSATED SURETY MUST FILE AN AFFIDAVIT THAT IS SIGNED UNDER PENALTY OF PERJURY BY A PERSON WITH PERSONAL KNOWLEDGE THAT THE DEFENDANT HAS BEEN DETAINED OR REMOVED FROM THE UNITED STATES.

(C) THE DISTRICT ATTORNEY DOES NOT OBJECT.

(VII) IF THE COURT EXONERATES THE LIABILITY ON THE BAIL BOND PURSUANT TO SUBSECTION (5)(b)(VI) OF THIS SECTION AND THE BOND PREMIUM HAS BEEN PAID, ANY COLLATERAL SECURING THE BAIL BOND IS RELEASED.

**SECTION 4.** In Colorado Revised Statutes, **repeal and reenact, with amendments**, 16-3-503 as follows:

**16-3-503. Bonds for persons with immigration-related issues.** ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, A LAW ENFORCEMENT AGENCY HOLDING A DEFENDANT CHARGED WITH A CRIMINAL OFFENSE SHALL NOT NOTIFY THE DEFENDANT'S BAIL BONDING AGENT OR A NONCOMPENSATED SURETY BEFORE THE BOND IS POSTED THAT HIS OR HER BOND OR FEES MAY BE FORFEITED IF THE DEFENDANT IS REMOVED FROM THE COUNTRY. ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, A LAW ENFORCEMENT OFFICER SHALL NO LONGER ASK A DEFENDANT OR A PERSON OTHER THAN A BAIL BONDING AGENT TO EXECUTE A WAIVER PRIOR TO POSTING A BOND FOR A PERSON CHARGED WITH A CRIMINAL OFFENSE THAT STATES THAT HE OR SHE UNDERSTANDS THAT THE BOND OR FEES

SHALL BE FORFEITED IF THE DEFENDANT IS REMOVED FROM THE COUNTRY. A BAIL BONDING AGENT SHALL NOT COMMUNICATE TO A DEFENDANT THAT HIS OR HER BOND OR FEES SHALL BE FORFEITED IF THE DEFENDANT IS REMOVED FROM THE COUNTRY.

**SECTION 5.** In Colorado Revised Statutes, **amend** 17-26-137 as follows:

**17-26-137. County jail assistance fund - repeal.** (1) The ~~moneys~~ MONEY collected pursuant to section 16-3-503 (1) ~~C.R.S.~~, shall be transmitted to the state treasurer, who shall credit the same to the county jail assistance fund, which fund is hereby created and referred to in this section as the "fund". The ~~moneys~~ MONEY in the fund shall be subject to annual appropriation by the general assembly to the department of corrections for allocation to counties for the maintenance and operation of county jails. Any ~~moneys~~ MONEY in the fund not expended for the purpose of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of ~~moneys~~ MONEY in the fund shall be credited to the fund. ~~Any unexpended and unencumbered moneys~~ THE STATE TREASURER SHALL TRANSFER ALL UNEXPENDED AND UNENCUMBERED MONEY remaining in the fund ~~at the end of a fiscal year shall remain in the fund and shall not be credited or transferred~~ ON JUNE 30, 2017, to the general fund, ~~or another fund~~ AND THE FUND IS ABOLISHED.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2017.

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

Approved: June 6, 2017