

1 **BAIL BOND REINSTATEMENT AMENDMENTS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Gregory S. Bell**

6 **LONG TITLE**

7 **General Description:**

8 This bill amends provisions regarding bond forfeiture if a defendant fails to appear for a
9 court proceeding.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ provides that if the defendant appears in court within seven days after missing a
13 court appearance, the court may reinstate a forfeited bond without notice to the
14 surety; and

15 ▶ provides that if the defendant fails to appear within seven days after missing a court
16 appearance, the court may not reinstate the bond without notifying the surety.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23 **77-20b-101**, as last amended by Chapter 245, Laws of Utah 2001

25 *Be it enacted by the Legislature of the state of Utah:*

26 Section 1. Section **77-20b-101** is amended to read:

27 **77-20b-101. Entry of nonappearance -- Notice to surety -- Release of surety on**



28 **failure of timely notice.**

29 (1) If a defendant who has posted bail fails to appear before the appropriate court when
30 required and the court issues a bench warrant or directs that the surety be given notice of the
31 nonappearance, the clerk of the court shall:

32 (a) mail notice of nonappearance by certified mail, return receipt requested, within 30
33 days to the address of the surety who posted the bond;

34 (b) notify the surety of the name, address, telephone number, and fax number of the
35 prosecutor;

36 (c) deliver a copy of the notice sent under Subsection (1)(a) to the prosecutor's office at
37 the same time notice is sent under Subsection (1)(a); and

38 (d) ensure that the name, address, and telephone number of the surety is stated on the
39 bench warrant.

40 (2) The prosecutor may mail notice of nonappearance by certified mail, return receipt
41 requested, to the address of the surety within 37 days after the date of the defendant's failure to
42 appear.

43 (3) If notice of nonappearance is not mailed to a surety, other than the defendant, in
44 accordance with Subsection (1) or (2), the surety is relieved of further obligation under the
45 bond if the surety's current name and address are on the bail bond in the court's file.

46 ~~[(4)(a) A bond ordered forfeited by the court may not be reinstated without the mutual
47 agreement of the surety and the court.]~~

48 ~~§ [(4)(a) If a defendant fails to appear at a scheduled court appearance and the court has
49 ordered forfeiture of the bond, and the defendant:~~

50 ~~—— (i) appears in court within seven days after the failure to appear, the court may reinstate
51 the bond without further notice to the surety; or~~

52 ~~—— (ii) has failed to appear in court within seven days after the failure to appear, the court
53 may not reinstate the bond without notifying the surety.]~~

53a (4)(a) IF A DEFENDANT APPEARS IN COURT WITHIN SEVEN DAYS AFTER A MISSED,
53b SCHEDULED COURT APPEARANCE, EVEN THOUGH THE COURT HAS ORDERED THE BOND
53c FORFEITED, THE COURT MAY REINSTATE THE BOND WITHOUT FURTHER NOTICE TO THE BOND
53d COMPANY.

53e (b) IF A DEFENDANT FAILS TO APPEAR WITHIN SEVEN DAYS AFTER A SCHEDULED COURT
53f APPEARANCE AND THE COURT HAS ORDERED THE BOND FORFEITED, THE COURT MAY NOT
53g REINSTATE THE BOND WITHOUT THE CONSENT OF THE SURETY.

54 ~~[(b)]~~ (c) § If the defendant is arrested and booked into a county jail booking facility pursuant
55 to a warrant for failure to appear on the original charges, the surety may file a motion with the
56 court to exonerate the bond. The surety shall deliver a copy of the motion to the prosecutor.

57 § ~~[(c)]~~ (d) § Unless the court makes a finding of good cause why the bond should not be
58 exonerated, it shall exonerate the bond if:

59 (i) the surety has delivered the defendant to the county jail booking facility in the
60 county where the original charge is pending;

61 (ii) the defendant has been released on a bond secured from a subsequent surety for the
62 original charge and the failure to appear;

63 (iii) after an arrest, the defendant has escaped from jail or has been released on the
64 defendant's own recognizance, pursuant to a pretrial release, under a court order regulating jail
65 capacity, or by a sheriff's release under Section 17-22-5.5; or

66 (iv) the surety has transported or agreed to pay for the transportation of the defendant
67 from a location outside of the county back to the county where the original charge is pending,
68 and the payment is in an amount equal to government transportation expenses listed in Section
69 76-3-201.

70 **§ ~~(d)~~ (e) §** Under circumstances not otherwise provided for in this section, the court may
71 exonerate the bond if it finds that the prosecutor has been given reasonable notice of a surety's
72 motion and there is good cause for the bond to be exonerated.

73 **§ ~~(e)~~ (f) §** If a surety's bond has been exonerated under this section and the surety remains
74 liable for the cost of transportation of the defendant, the surety may take custody of the
75 defendant for the purpose of transporting the defendant to the jurisdiction where the charge is
76 pending.

Legislative Review Note**as of 1-26-04 12:30 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0173

Bail Bond Reinstatement Amendments

11-Feb-04

11:34 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact for those in compliance with provisions of the bill.

Office of the Legislative Fiscal Analyst