

BAIL BOND REINSTATEMENT AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Gregory S. Bell

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ provides that if the defendant appears in court within seven days after missing a court appearance, the court may reinstate a forfeited bond without notice to the surety; and
- ▶ provides that if the defendant fails to appear within seven days after missing a court appearance, the court may not reinstate the bond without the consent of the surety.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

77-20b-101. Entry of nonappearance -- Notice to surety -- Release of surety on failure of timely notice.

- (1) If a defendant who has posted bail fails to appear before the appropriate court when

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required and the court issues a bench warrant or directs that the surety be given notice of the nonappearance, the clerk of the court shall:

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

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

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

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

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

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

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

(4) (a) If a defendant appears in court within seven days after a missed, scheduled court appearance, even though the court has ordered the bond forfeited, the court may reinstate the bond without further notice to the bond company.

(b) If a defendant fails to appear within seven days after a scheduled court appearance and the court has ordered the bond forfeited, the court may not reinstate the bond without the consent of the surety.

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

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

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

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

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

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

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

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