

HOUSE BILL NO. 521
INTRODUCED BY J. BALYEAT

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO BAIL BONDS; PROVIDING THAT IF A SURETY RETURNS A DEFENDANT WITHIN 90 DAYS OF FORFEITURE OF A BOND THE FORFEITURE MUST BE DISCHARGED WITHOUT PENALTY; ALLOWING A SURETY TO SURRENDER A DEFENDANT TO A DETENTION CENTER FACILITY; AND AMENDING SECTIONS 46-9-503 AND 46-9-510, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-9-503, MCA, is amended to read:

"46-9-503. Violation of release condition -- forfeiture. (1) If a defendant violates a condition of release, including failure to appear, the prosecutor may make a written motion to the court for revocation of the order of release. A judge may issue a warrant for the arrest of a defendant charged with violating a condition of release. Upon arrest, the defendant must be brought before a judge in accordance with 46-7-101.

(2) If a defendant fails to appear before a court as required and bail has been posted, the judge may declare the bail forfeited. Notice of the order of forfeiture must be mailed to the defendant and the defendant's sureties at their last-known address within 10 working days or the bond becomes void and must be released and returned to the surety within 5 working days.

(3) If at any time within 90 days after the forfeiture the defendant's sureties surrender the defendant pursuant to 46-9-510 or appear and satisfactorily excuse the defendant's failure to appear, the judge ~~may~~ shall direct the forfeiture to be discharged ~~upon terms as may be just~~ without penalty. If at any time within 90 days after the forfeiture the defendant appears and satisfactorily excuses the defendant's failure to appear, the judge shall direct the forfeiture to be discharged upon terms as may be just.

(4) The surety bail bond must be exonerated upon proof of the defendant's death or incarceration or subsection to court-ordered treatment in a foreign jurisdiction for a period exceeding the time limits under subsection (3).

(5) A surety bail bond is an appearance bond only. It cannot be held or forfeited for fines, restitution, or violations of release conditions other than failure to appear. The original bond is in effect pursuant to 46-9-121 and is only due and payable if the surety fails, after 90 days from forfeiture, to surrender the defendant or if the

defendant fails to appear on his own within the same time period."

Section 2. Section 46-9-510, MCA, is amended to read:

"46-9-510. Surrender of defendant. (1) At any time before the forfeiture of bail or within 90 days after forfeiture:

(a) the defendant may surrender to the court or any peace officer of this state; or

(b) the surety company may arrest the defendant and surrender the defendant to the court, ~~or~~ any peace officer of this state, or any detention center facility.

(2) The peace officer shall detain the defendant in the officer's custody as upon commitment and shall file a certificate, acknowledging the surrender, in the court having jurisdiction of the defendant. The court may then order the bail exonerated."

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