
SENATE BILL No. 373

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-12-11; IC 27-10-2; IC 35-33.

Synopsis: Bail and bail procedures. Provides that a court may admit a defendant to bail by establishing the bail amount and requiring the defendant to execute a bail bond by selecting one of the following options: (1) Executing a cash bond by depositing cash or securities or by making a payment by credit card in an amount that equals 100% of the bail amount. (2) Executing a surety bond executed by a bail agent representing a sufficient solvent surety insurance company authorized to underwrite bail bonds in Indiana and the county where approved in an amount equal to the bail amount. (3) Executing a deposit bond by depositing at least 10% of the amount of the bail with a sufficient insurer who has been a resident of the state and county where the bond is executed for at least one year, and has affirmed that the insurer has unencumbered assets equal to the bail amount. (4) Executing a real estate bond secured by real estate in the county where the bond will be executed, if 33% of the true tax value minus encumbrances is at least equal to the amount of the bail. Provides that: (1) the court shall inform the defendant, or a person making a deposit on behalf of the defendant, that the defendant or the person may enter into an agreement to allow the court to retain all or a part of the bail to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted; and (2) if the defendant or person making a deposit on behalf of the person chooses to enter into the agreement, the court shall require the defendant and each person who makes the deposit on behalf of the defendant to execute the agreement. Repeals and replaces the law concerning forms used in recognizances for the appearance of prisoners. Repeals and
(Continued next page)

Effective: July 1, 2014.

Taylor

_____, read first time and referred to Committee on



Digest Continued

replaces the law concerning late surrender fees. Provides that late surrender fees shall be distributed as follows: (1) 50% of the late surrender fees shall be deposited in the police pension trust fund. (2) 10% of the late surrender fees shall be deposited in the county extradition and sheriff's assistance fund. (3) 20% of the late surrender fees shall be retained by the court in which the bond was posted to defray the costs of operating the court or defray the costs of operating diversion programs. (4) Seven and one-half percent of the late surrender fees shall be deposited in the county public defender fund. (5) Seven and one-half percent of the late surrender fees shall be deposited in the clerk of the court operating account to offset operating expenses. (6) Five percent of the late surrender fees shall be deposited in the county electronic monitoring fund in the county in which the bond was posted to defray the costs of operating electronic monitoring programs that involve indigent offenders. Establishes the county electronic monitoring fund (fund) in each county consisting of late surrender fees under the bail law. Provides that the fund shall be used: (1) to defray the costs incurred by a county to operate electronic monitoring programs that involve indigent offenders; or (2) if a county does not operate an electronic monitoring program, to defray the costs incurred by a county in providing court appointed public defenders to indigent defendants. Makes conforming amendments.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 373



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 11-12-11 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]:
4 **Chapter 11. County Electronic Monitoring Fund**
5 **Sec. 1. As used in this chapter, "fund" refers to a county**
6 **electronic monitoring fund established by section 2 of this chapter.**
7 **Sec. 2. There is established in each county a county electronic**
8 **monitoring fund.**
9 **Sec. 3. (a) Except as provided in subsection (b), the fund shall be**
10 **used:**
11 **(1) to defray the costs incurred by a county to operate**
12 **electronic monitoring programs that involve indigent**
13 **offenders; or**
14 **(2) if a county does not operate an electronic monitoring**
15 **program, to defray the costs incurred by a county in**
16 **providing court appointed public defenders to indigent**



1 **defendants.**

2 **(b) A county may withdraw money in the fund one (1) time if**
 3 **money in the fund is equal to an amount that is at least two (2)**
 4 **times the amount of the initial costs incurred by the county to begin**
 5 **operating a county electronic monitoring program. Money**
 6 **withdrawn from the fund must be used to compensate the county**
 7 **for the initial costs incurred by the county to begin operating the**
 8 **program.**

9 **Sec. 4. The fund shall be administered by the county auditor.**

10 **Sec. 5. The fund consists of late surrender fees deposited in the**
 11 **fund under IC 35-33-8-7(i)(6).**

12 **Sec. 6. The expenses of administering the fund shall be paid**
 13 **from money in the fund.**

14 **Sec. 7. Money in the county electronic monitoring fund at the**
 15 **end of a particular calendar year does not revert to any other fund**
 16 **but remains in the county electronic monitoring fund.**

17 SECTION 2. IC 27-10-2-3, AS AMENDED BY P.L.105-2010,
 18 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2014]: Sec. 3. (a) An undertaking is valid if it states:

- 20 (1) the court where the defendant is to appear;
 21 (2) the amount of the bail; and
 22 (3) that it was made before an official legally authorized to take
 23 the bond.

24 (b) A surety remains liable on an undertaking despite:

- 25 (1) any lack of the surety's qualifications as required by section 4
 26 of this chapter;
 27 (2) any other agreement that is expressed in the undertaking;
 28 (3) any failure of the defendant to join in the undertaking; or
 29 (4) any other defect of form or record, or any other irregularity,
 30 except as to matters covered by subsection (a).

31 (c) Any undertaking written after August 31, 1985, shall expire
 32 thirty-six (36) months after it is posted for the release of a defendant
 33 from custody. This section does not apply to cases in which a bond has
 34 been declared to be forfeited and the surety and bail agent have been
 35 notified as described in ~~section 12 of this chapter.~~ **IC 35-33-8-7.**

36 SECTION 3. IC 27-10-2-4 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. Every **insurer or**
 38 **personal surety executing a bond** for the release of a person on bail
 39 shall be qualified as:

- 40 (1) an insurer as defined and meeting the qualifications prescribed
 41 in IC 27-1-5-1, and represented by a bail agent as defined in and
 42 meeting the qualifications prescribed in this article; or



1 bond; the court shall order CD (the surety) to produce the defendant.
 2 The court shall mail notice of this order to CD; the surety at
 3 _____ and _____ in _____ county and state of
 4 Indiana. If the surety does not produce the defendant; and does not pay
 5 all costs and late surrender fees in compliance with IC 27-10-2-12; the
 6 court shall; three hundred sixty-five (365) days after the mailing of the
 7 above notice to the surety; declare the bond forfeited; enter judgment
 8 forthwith against the surety; and certify the judgment to the clerk for
 9 record. Such forfeiture shall be without pleadings and without change
 10 of judge or change of venue. The obligors on such bond may appeal to
 11 the ruling of the court and appeal to the court of appeals as in other
 12 civil cases; and on appeal the evidence may be reviewed. Execution
 13 shall issue forthwith to the sheriff against the properties of each of us
 14 to be levied as other executions are levied:

15 Witness our hand and seals this ___ day of _____, 20__.

16 A B _____ (SEAL)

17 C D _____ (SEAL)

18 taken and approved this ___ day of _____, 20__.

19 _____
 20 _____
 (Officer taking surety)

21 Affidavits shall be taken from each personal surety substantially
 22 as follows:

23 State of Indiana)

24 County of _____)

25 I, C D, being duly sworn; on oath say; that I am worth in my personal
 26 rights and name; over and above all debts and liabilities of any and
 27 every kind; not less than _____ dollars; and that I possess real estate
 28 in my own name; located in the above-named county; which is worth
 29 over and above all encumbrances and liens; more than _____ dollars;
 30 that I am surety on the following recognizance bonds and none other;
 31 aggregating the total amount of _____ to-wit: (Here name bonds
 32 and amounts; if any) _____; And that I am not surety on any
 33 recognizance bond of any kind in any court which bond has been
 34 forfeited which judgment remains unpaid:

35 C D _____ (SEAL)

36 Subscribed and sworn to before me; this ___ day of _____,
 37 20__.

38 _____
 39 _____
 (Officer administering oath)

40 (b) Printed forms of the above bonds shall be kept by all clerks of
 41 court that are authorized by law to admit prisoners to bail and shall be
 42 supplied by the clerks to sheriffs.



- (c) For the purposes of this article, a cause is determined when a:
- (1) judgment of conviction or acquittal is entered for a misdemeanor;
 - (2) judgment is withheld in a misdemeanor case;
 - (3) judgment of acquittal is entered in a felony case;
 - (4) sentence is imposed in a felony case; or
 - (5) defendant has been ordered or admitted to a diversion program.

SECTION 6. IC 27-10-2-12 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 12. (a) Only if a defendant does not appear as provided in the bond:

- (1) the court shall:
 - (A) issue a warrant for the defendant's arrest; and
 - (B) order the bail agent and the surety to surrender the defendant to the court immediately;
- (2) the clerk shall, less than thirty (30) days after the defendant's failure to appear, mail notice of the order to both:
 - (A) the bail agent; and
 - (B) the surety;
 at each of the addresses indicated in the bonds; and
- (3) if the defendant later is arrested or otherwise appears:
 - (A) the court shall order that the surety be released from the bond; and
 - (B) after the court issues an order under clause (A); the surety's original undertaking shall be reinstated if the surety files a written request for the reinstatement of the undertaking with the court.

This subsection may not be construed to prevent a court from revoking or resetting bail.

- (b) The bail agent or surety must:
- (1) produce the defendant; or
 - (2) prove within three hundred sixty-five (365) days:
 - (A) that the appearance of the defendant was prevented:
 - (i) by the defendant's illness or death;
 - (ii) because the defendant was at the scheduled time of appearance or currently is in the custody of the United States, a state, or a political subdivision of the United States or a state;
 - (iii) because the required notice was not given; or
 - (iv) because authorities have refused to extradite the defendant, by a preponderance of the evidence; and
 - (B) the defendant's absence was not with the consent or connivance of the sureties.



1 (c) If the bail agent or surety does not comply with the terms of
 2 subsection (b) within one hundred twenty (120) days after the mailing
 3 of the notice required under subsection (a)(2); a late surrender fee shall
 4 be assessed against the bail agent or surety as follows:

5 (1) If compliance occurs more than one hundred twenty (120)
 6 days but not more than one hundred eighty (180) days after the
 7 mailing of notice; the late surrender fee is twenty percent (20%)
 8 of the face value of the bond.

9 (2) If compliance occurs more than one hundred eighty (180) days
 10 but not more than two hundred ten (210) days after the mailing of
 11 notice; the late surrender fee is thirty percent (30%) of the face
 12 value of the bond.

13 (3) If compliance occurs more than two hundred ten (210) days
 14 but not more than two hundred forty (240) days after the mailing
 15 of notice; the late surrender fee is fifty percent (50%) of the face
 16 value of the bond.

17 (4) If compliance occurs more than two hundred forty (240) days
 18 but not more than three hundred sixty-five (365) days after the
 19 mailing of notice; the late surrender fee is eighty percent (80%)
 20 of the face value of the bond.

21 (5) If the bail agent or surety does not comply with the terms of
 22 subsection (b) within three hundred sixty-five (365) days of the
 23 mailing of notice required under subsection (a)(2); the late
 24 surrender fee is eighty percent (80%) of the face value of the
 25 bond.

26 All late surrender fees are due as of the date of compliance with
 27 subsection (b) or three hundred sixty-five (365) days after the mailing
 28 of notice required under subsection (a)(2); whichever is earlier; and
 29 shall be paid by the surety when due. If the surety fails to pay; then the
 30 late surrender fees shall be paid by the commissioner as provided in
 31 subsection (f).

32 (d) If the bail agent or surety does not comply with the terms of
 33 subsection (b) within three hundred sixty-five (365) days of the mailing
 34 of notice required by subsection (a)(2); the court shall declare forfeited
 35 an amount equal to twenty percent (20%) of the face value of the bond.
 36 The court shall immediately enter judgment on the forfeiture; without
 37 pleadings and without change of judge or change of venue; and assess
 38 against the bail agent or surety all actual costs resulting from the
 39 defendant's failure to appear. These costs include jury fees; witness
 40 fees; and any other documented costs incurred by the court.

41 (e) Proceedings relative to the bond; forfeiture of a bond; judgment
 42 on the forfeiture; execution of judgment; or stay of proceedings shall



1 be in the court in which the bond was posted. Costs and late surrender
 2 fee assessed against a bail agent or surety under subsection (c) shall be
 3 satisfied without further order of the court as provided in subsection (f).
 4 The court may waive the late surrender fee or extend the period for
 5 payment beyond the statutorily permitted period; or both, if the
 6 following conditions are met:

7 (1) A written request is filed with the court and the prosecutor.

8 (2) The surety or bail agent provides evidence satisfactory to the
 9 court that diligent efforts were made to locate the defendant.

10 (f) In the case of an insurer; if the fees, costs; or judgment is not
 11 paid; then the clerk shall mail the notice to the commissioner. The
 12 commissioner shall:

13 (1) within ten (10) days of receipt of the notice forward a copy by
 14 certified mail to the insurer;

15 (2) forty-five (45) days after receipt of the notice from the clerk;
 16 if the commissioner has not been notified by the clerk that the
 17 fees or judgment or both have been paid; pay the late surrender
 18 fee assessment, costs, and any judgment of forfeiture ordered by
 19 the court from funds the insurer has on deposit with the
 20 department of insurance;

21 (3) upon paying the assessment, costs, and judgment, if any, from
 22 funds on deposit, immediately revoke the license of the insurer;
 23 if the satisfaction causes the deposit remaining to be less than the
 24 amount required by this article; and

25 (4) within ten (10) days after revoking a license, notify the insurer
 26 and the insurer's agents and the clerk of each county in Indiana of
 27 the revocation and the insurer shall be prohibited from conducting
 28 a bail bond business in Indiana until the deposit has been
 29 replenished.

30 (g) The notice mailed by the clerk to the commissioner pursuant to
 31 the terms of subsection (f) shall include:

32 (1) the date on which the defendant originally failed to appear as
 33 provided in the bond;

34 (2) the date of compliance with subsection (b); if compliance was
 35 achieved within three hundred sixty-five (365) days after the
 36 mailing of the notice required by subsection (a)(2);

37 (3) the amount of the bond;

38 (4) the dollar amount of the late surrender fee due;

39 (5) the amount of costs resulting from the defendant's failure to
 40 appear; and

41 (6) if applicable, the dollar amount of the judgment of forfeiture
 42 entered by the court.



1 (h) Any surety on a bond may appeal to the court of appeals as in
 2 other civil cases without moving for a new trial; and on the appeal the
 3 evidence, if any, shall be reviewed.

4 (i) Fifty percent (50%) of the late surrender fees collected under this
 5 chapter shall be deposited in the police pension trust fund established
 6 under IC 36-8-10-12 and the remaining fifty percent (50%) shall be
 7 deposited in the county extradition and sheriff's assistance fund
 8 established under IC 35-33-14.

9 SECTION 7. IC 27-10-2-13 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. All liability of the
 11 bail agent or surety may be enforced on motion without necessity of an
 12 independent action if conformance with:

- 13 (1) sections 1 through ~~12~~ 9 of this chapter;
 14 (2) **section 11 of this chapter;**
 15 (3) **IC 35-33-8-6.7; and**
 16 (4) **IC 35-33-8-7;**

17 is shown.

18 SECTION 8. IC 35-33-8-0.1, AS ADDED BY P.L.220-2011,
 19 SECTION 585, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2014]: Sec. 0.1. The following amendments to
 21 this chapter apply as follows:

- 22 (1) The addition of section 8 of this chapter by P.L.36-1990
 23 **(before its repeal)** does not apply to any bail deposit made under
 24 section 3(a)(1) of this chapter (before its repeal) or section
 25 3.1(a)(1) of this chapter (before its repeal) that is made before
 26 March 20, 1990.
 27 (2) The amendments made to section 3.1(d) of this chapter
 28 (before its repeal) by P.L.156-1994 apply only to the retention or
 29 collection of a fee for a bond executed or deposit made after
 30 March 11, 1994.

31 SECTION 9. IC 35-33-8-3.2, AS AMENDED BY P.L.35-2012,
 32 SECTION 107, IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2014]: Sec. 3.2. (a) **Under Article 1, Section**
 34 **17 of the Constitution of the State of Indiana**, a court may admit a
 35 defendant to bail **as follows by establishing the bail amount and**
 36 **requiring the defendant to execute a bail bond by selecting one (1)**
 37 **of the options listed in subdivision (1) and impose by imposing** any
 38 of the ~~following~~ **other** conditions **listed in subdivisions (2) through**
 39 **(8)** to assure the defendant's appearance at any stage of the legal
 40 proceedings, or, upon a showing of clear and convincing evidence that
 41 the defendant poses a risk of physical danger to another person or the
 42 community, to assure the public's physical safety:



- 1 (†) Require the defendant to:
 2 (A) execute a bail bond with sufficient solvent sureties;
 3 (B) deposit cash or securities in an amount equal to the bail;
 4 (C) execute a bond secured by real estate in the county, where
 5 thirty-three hundredths (0.33) of the true tax value less
 6 encumbrances is at least equal to the amount of the bail;
 7 (D) post a real estate bond; or
 8 (E) perform any combination of the requirements described in
 9 clauses (A) through (D).

10 (1) If admitted to bail by a court, the defendant shall select
 11 one (1) of the following:

12 (A) Execute a cash bond:

13 (i) by depositing cash or securities; or

14 (ii) by making a cash payment by credit card;

15 in an amount that equals one hundred percent (100%) of
 16 the bail amount.

17 (B) Execute a surety bond executed by a bail agent
 18 representing a sufficient solvent surety insurance company
 19 authorized to underwrite bail bonds in:

20 (i) Indiana; and

21 (ii) the county where the bond will be executed;

22 in an amount equal to the bail amount.

23 (C) Execute a deposit bond by depositing at least ten
 24 percent (10%) of the amount of the bail with a sufficient
 25 insurer who has:

26 (i) been a resident of the state and the county where the
 27 bond will be executed for at least one (1) year; and

28 (ii) affirmed that the insurer has unencumbered assets
 29 equal to the bail amount.

30 (D) Execute a real estate bond secured by real estate in the
 31 county where the bond will be executed, if thirty-three
 32 percent (33%) of the true tax value of the real estate minus
 33 encumbrances is at least equal to the amount of the bail.

34 If the court requires the defendant to deposit cash or cash and
 35 another form of security as bail; The court shall inform the
 36 defendant, or a person making a deposit or payment on behalf
 37 of the defendant, that the defendant or the person may enter
 38 into an agreement to allow the court to retain all or a part of
 39 the bail to pay publicly paid costs of representation and fines,
 40 costs, fees, and restitution that the court may order the
 41 defendant to pay if the defendant is convicted. If the
 42 defendant or person making a deposit or payment on behalf



1 **of the defendant chooses to enter into the agreement**, the court
 2 **may shall** require the defendant and each person who makes the
 3 deposit on behalf of the defendant to execute ~~an~~ **the** agreement.
 4 ~~that allows the court to retain all or a part of the cash to pay~~
 5 ~~publicly paid costs of representation and fines; costs; fees; and~~
 6 ~~restitution that the court may order the defendant to pay if the~~
 7 ~~defendant is convicted. Whether or not a defendant or a person~~
 8 ~~making a deposit on behalf of the defendant enters into an~~
 9 ~~agreement~~, the defendant must also pay the fee required by
 10 subsection (d).

11 ~~(2) Require the defendant to execute:~~

12 ~~(A) a bail bond by depositing cash or securities with the clerk~~
 13 ~~of the court in an amount not less than ten percent (10%) of~~
 14 ~~the bail; and~~

15 ~~(B) an agreement that allows the court to retain all or a part of~~
 16 ~~the cash or securities to pay fines; costs; fees; and restitution~~
 17 ~~that the court may order the defendant to pay if the defendant~~
 18 ~~is convicted.~~

19 A portion of the deposit, not to exceed ten percent (10%) of the
 20 monetary value of the deposit or fifty dollars (\$50), whichever is
 21 the lesser amount, may be retained as an administrative fee. ~~The~~
 22 ~~clerk shall also retain from the deposit under this subdivision~~
 23 ~~fines; costs; fees; and restitution as ordered by the court; publicly~~
 24 ~~paid costs of representation that shall be disposed of in~~
 25 ~~accordance with subsection (b); and the fee required by~~
 26 ~~subsection (d).~~ In the event of the posting of a real estate bond,
 27 the bond shall be used only to insure the presence of the
 28 defendant at any stage of the legal proceedings, but shall not be
 29 foreclosed for the payment of fines, costs, fees, or restitution. The
 30 individual posting bail for the defendant or the defendant
 31 admitted to bail under this subdivision must be notified by the
 32 sheriff, court, or clerk that the defendant's deposit may be
 33 forfeited under section 7 of this chapter or retained under
 34 subsection (b).

35 ~~(3) (2) Impose reasonable restrictions on the activities,~~
 36 ~~movements, associations, and residence of the defendant during~~
 37 ~~the period of release.~~

38 ~~(4) (3) Except as provided in section 3.6 of this chapter, require~~
 39 ~~the defendant to refrain from any direct or indirect contact with an~~
 40 ~~individual and, if the defendant has been charged with an offense~~
 41 ~~under IC 35-46-3, any animal belonging to the individual,~~
 42 ~~including if the defendant has not been released from lawful~~



- 1 detention.
- 2 ~~(5)~~ **(4)** Place the defendant under the reasonable supervision of a
- 3 probation officer, pretrial services agency, or other appropriate
- 4 public official. If the court places the defendant under the
- 5 supervision of a probation officer or pretrial services agency, the
- 6 court shall determine whether the defendant must pay the pretrial
- 7 services fee under section 3.3 of this chapter.
- 8 ~~(6)~~ **(5)** Release the defendant into the care of a qualified person
- 9 or organization responsible for supervising the defendant and
- 10 assisting the defendant in appearing in court. The supervisor shall
- 11 maintain reasonable contact with the defendant in order to assist
- 12 the defendant in making arrangements to appear in court and,
- 13 where appropriate, shall accompany the defendant to court. The
- 14 supervisor need not be financially responsible for the defendant.
- 15 ~~(7)~~ **(6)** Release the defendant on personal recognizance unless:
- 16 (A) the state presents evidence relevant to a risk by the
- 17 defendant:
- 18 (i) of nonappearance; or
- 19 (ii) to the physical safety of the public; and
- 20 (B) the court finds by a preponderance of the evidence that the
- 21 risk exists.
- 22 ~~(8)~~ **(7)** Require a defendant charged with an offense under
- 23 IC 35-46-3 to refrain from owning, harboring, or training an
- 24 animal.
- 25 ~~(9)~~ **(8)** Impose any other reasonable restrictions designed to
- 26 assure the defendant's presence in court or the physical safety of
- 27 another person or the community.
- 28 (b) Within thirty (30) days after disposition of the charges against
- 29 the defendant, the court that admitted the defendant to bail shall order
- 30 the clerk to remit the amount of the deposit remaining under subsection
- 31 ~~(a)(2)~~ **(a)(1)(A)** to the defendant. The portion of the deposit that is not
- 32 remitted to the defendant shall be deposited by the clerk in the
- 33 supplemental public defender services fund established under
- 34 IC 33-40-3.
- 35 (c) For purposes of subsection (b), "disposition" occurs when the
- 36 indictment or information is dismissed or the defendant is acquitted or
- 37 convicted of the charges.
- 38 (d) Except as provided in subsection (e), the clerk of the court shall
- 39 ~~(1)~~ collect a fee of five dollars (\$5) from each bond or deposit
- 40 **required listed** under subsection (a)(1). ~~and~~
- 41 ~~(2)~~ **retain a fee of five dollars (\$5) from each deposit under**
- 42 **subsection (a)(2):**



1 The clerk of the court shall semiannually remit the fees collected under
2 this subsection to the board of trustees of the Indiana public retirement
3 system for deposit in the special death benefit fund. ~~The fee required~~
4 ~~by subdivision (2) is in addition to the administrative fee retained under~~
5 ~~subsection (a)(2):~~

6 (e) With the approval of the clerk of the court, the county sheriff
7 may collect the bail posted under this section. The county sheriff shall
8 remit the bail to the clerk of the court by the following business day
9 and remit monthly the five dollar (\$5) special death benefit fee to the
10 county auditor.

11 (f) When a court imposes a condition of bail described in subsection
12 ~~(a)(4): (a)(3):~~

- 13 (1) the clerk of the court shall comply with IC 5-2-9; and
- 14 (2) the prosecuting attorney shall file a confidential form
15 prescribed or approved by the division of state court
16 administration with the clerk.

17 SECTION 10. IC 35-33-8-6.7 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2014]: **Sec. 6.7. Recognizances for the**
20 **appearance of prisoners in all cases and in all courts must be in**
21 **writing, be taken with a person who meets the qualifications in**
22 **IC 27-10-2-4, and be substantially in one (1) of the following forms:**

23 (1)

24 **COURT BAIL BOND**

25 STATE vs. _____;

26 Case: _____

27 I, _____ acknowledge myself bound to the
28 State of Indiana in the amount of January 14(Full Amount of Bail)
29 Judiciary. Dollars; and hereby deposit a cash security
30 of _____ Dollars.

31 If the defendant appears on Date: _____
32 Time: _____ as ordered by the court to answer the charge
33 in this case, and appears from day to day after that date as may be
34 required, and the depositor has agreed to allow the court to retain
35 all fees, fines, costs, and restitution that may be adjudged against
36 the defendant, then this bond is void, and the cash security shall be
37 returned to the depositor minus the following:

- 38 (1) a five dollar (\$5) special death benefit fee;
- 39 (2) an administrative fee of not more than ten percent (10%)
40 of the cash security up to a maximum of fifty dollars (\$50);
- 41 (3) any fees, fines, or restitution ordered by the court; and
- 42 (4) any necessary legal and attorney's fees incurred by the



1 court on behalf of the defendant. If the depositor does not
 2 agree to allow the court to retain all fees, fines, costs, and
 3 restitution that may be adjudged against the defendant, and
 4 any necessary legal and attorney's fees incurred by the court
 5 on behalf of the defendant, then the deposit minus the five
 6 dollar (\$5) special death benefit fee and the administrative fee
 7 of not more than ten percent (10%) of the cash security up to
 8 a maximum of fifty dollars (\$50) shall be retained and the
 9 remaining deposit shall be returned to the depositor of the
 10 bond at the conclusion of this case.

11 The depositor agrees to allow the court to retain any fees, fines,
 12 costs, and restitution from this bond. Depositor's Initials
 13 here: _____

14 The depositor does not agree to allow the court to retain any fees,
 15 fines, costs, and restitution from this bond except:

- 16 (1) a five dollar (\$5) special death benefit fee; and
- 17 (2) an administrative fee of not more than ten percent (10%)
 18 of the cash security up to a maximum of fifty dollars (\$50).

19 Depositor's Initials here: _____

20 If the defendant does not appear at the time fixed in this bond, or
 21 at any time after that date as ordered by the court, this bond shall
 22 be forfeited not later than ten (10) days after the failure to appear,
 23 if there was no justified reason for the failure to appear, and a
 24 warrant will be issued for the defendant's arrest. The clerk shall
 25 immediately notify the defendant and depositor of the forfeiture of
 26 this bond at the addresses given below, and the depositor of the
 27 bond shall immediately produce the defendant or the defendant
 28 shall immediately surrender to the court or jail. If the failure to
 29 appear continues without a justified reason for at least one
 30 hundred twenty (120) days, the court shall immediately enter
 31 judgment on the forfeiture of this bond for the full bail amount.
 32 The forfeiture and judgment shall be without pleadings and
 33 without change of judge or change of venue.

34 The defendant acknowledges that the defendant may not leave
 35 the State of Indiana without permission of the court and that the
 36 defendant's signature on this bond shall be held as a waiver of
 37 extradition proceedings in any state, territory, or country in which
 38 the defendant may be found and that any law enforcement officer
 39 may take the defendant into custody without further orders or
 40 proceedings in this jurisdiction or the jurisdiction in which the
 41 defendant is found.

42 Witness our hands and seals on this date _____



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Defendant's Signature

Defendant's Address, Apartment or Lot Number City/State/Zip Code

Depositor's Signature

Depositor's Address, Apartment or Lot Number City/State/Zip Code

Witness to Defendant/Depositor Signature

Printed Name of Witness

Title of Witness

Badge Number of Witness\Correctional Officer (2)

COURT DEPOSIT BAIL BOND

STATE vs. _____ ; Case: _____

I, _____ acknowledge myself bound to the State of Indiana in the amount of (Full Amount of Bail) Dollars and hereby affix my name and signature upon this bond affirming under the penalty of perjury that I am a sufficient surety for this bond, a resident of the State of Indiana and a resident of the county where this bond is to be executed, and have unencumbered assets equal to the full bail amount of _____ and do hereby deposit a cash security of _____ Dollars.

If the defendant appears on Date: _____ Time: _____ as ordered by the court to answer the charge in this case, and appears from day to day after that date as may be



1 required, and the depositor has agreed to allow the court to retain
 2 all fees, fines, costs, and restitution that may be adjudged against
 3 the defendant, then this bond is void, and the cash security shall be
 4 returned to the depositor minus the following:

- 5 (1) a five dollar (\$5) special death benefit fee;
 6 (2) an administrative fee of not more than ten percent (10%)
 7 of the cash security up to a maximum of fifty dollars (\$50);
 8 (3) any fees, fines, costs, or restitution ordered by the court;
 9 and
 10 (4) any necessary legal and attorney's fees incurred by the
 11 court on behalf of the defendant.

12 If the depositor does not agree to allow the court to retain all fees,
 13 fines, costs, and restitution that may be adjudged against the
 14 defendant, and any necessary legal and attorney's fees incurred by
 15 the court on behalf of the defendant, then the deposit minus the five
 16 dollar (\$5) special death benefit fee and the administrative fee of
 17 not more than ten percent (10%) of the cash security up to a
 18 maximum of fifty dollars (\$50) shall be retained and the remaining
 19 deposit shall be returned to the depositor of the bond at the
 20 conclusion of this case.

21 The depositor agrees to allow the court to retain any costs, fines,
 22 and fees from this bond. Depositor's Initials here: _____

23 The depositor does not agree to allow the court to retain any
 24 costs, fines, and fees from this bond except:

- 25 (1) a five dollar (\$5) special death benefit fee; and
 26 (2) an administrative fee of not more than ten percent (10%)
 27 of the cash security up to a maximum of fifty dollars (\$50).

28 Depositor's Initials here: _____

29 If the defendant does not appear at the time fixed in this bond, or
 30 at any time thereafter ordered by the court, this bond shall be
 31 forfeited not later than ten (10) days after the failure to appear if
 32 there was no justified reason for the failure to appear and a
 33 warrant will be issued for the defendant's arrest. The clerk will
 34 immediately notify the defendant and depositor of the forfeiture of
 35 this bond at the addresses given below, and the guarantor of the
 36 bond shall immediately produce the defendant, or the defendant
 37 shall immediately surrender to the court or jail. If the failure to
 38 appear continues without a justified reason for one hundred twenty
 39 (120) days, the court shall immediately enter judgment on the
 40 forfeiture of this bond for the full bail amount and shall
 41 immediately issue an execution of judgment order to the sheriff
 42 against the properties owned by the depositor to be levied as other



1 executions are levied. Such forfeiture and judgment shall be
 2 without pleadings and without change of judge or change of venue.
 3 The defendant acknowledges that the defendant may not leave
 4 the State of Indiana without permission of the court, the
 5 defendant's signature on this bond shall be held as a waiver of
 6 extradition proceedings in any state, territory, or country in which
 7 the defendant may be found, and any law enforcement officer may
 8 take the defendant into custody without further orders or
 9 proceedings in this jurisdiction or the jurisdiction in which the
 10 defendant is found.
 11 Witness our hands and seals on this date _____

12 _____
 13 **Defendant's Signature**

14 _____
 15 **Defendant's Address, Apartment or Lot Number City/State/Zip**
 16 **Code**

17 _____
 18 **Depositor's Signature**

19 _____
 20 **Depositor's Address, Apartment or Lot Number City/State/Zip**
 21 **Code**

22 _____
 23 **Witness to Defendant/Depositor Signature**

24 _____
 25 **Printed Name of Witness**

26 _____
 27 **Title of Witness**

28 _____
 29 **Badge Number of Witness\Correctional Officer**

30 SECTION 11. IC 35-33-8-7, AS AMENDED BY P.L.105-2010,
 31 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2014]: Sec. 7. (a) If a defendant:
 33 (1) was admitted to bail under section ~~3.2(a)(2)~~ **3.2(a)(1)** of this
 34 chapter; and



1 (2) has failed to appear before the court as ordered;
 2 the court shall **issue a warrant for the defendant's arrest not later**
 3 **than ten (10) days after the date the defendant failed to appear**
 4 **and**, except as provided in subsection (b), ~~or section 8(b) of this~~
 5 ~~chapter~~ declare the bond forfeited ~~not earlier than one hundred twenty~~
 6 ~~(120) days after the defendant's failure to appear and issue a warrant for~~
 7 ~~the defendant's arrest. if the failure to appear was without a justified~~
 8 ~~reason.~~

9 (b) If a defendant was admitted to bail by executing a surety
 10 bond under section 3.2(a)(1)(B) of this chapter:

11 (1) the court:

12 (A) may not declare the bond forfeited after ten (10) days;
 13 and

14 (B) shall order the bail agent and the surety to surrender the
 15 defendant to the court immediately;

16 (2) the clerk shall immediately send notice of the order under
 17 subdivision (1)(B) by mail or electronic mail to both:

18 (A) the bail agent; and

19 (B) the surety;

20 at each of their physical mailing address or electronic mail
 21 address indicated in the bonds; and

22 (3) if the defendant is arrested after the ten (10) day period or
 23 otherwise appears:

24 (A) the court shall order the surety released from the bond;
 25 and

26 (B) after the court issues an order under clause (A), the
 27 surety's original undertaking shall be reinstated if the surety
 28 agrees to reinstatement of the undertaking with the court.

29 This subsection may not be construed to prevent a court from
 30 revoking or resetting bail.

31 (c) If a defendant fails to appear as provided in a bond, the bail
 32 agent or surety must:

33 (1) produce the defendant; or

34 (2) prove within one hundred eighty (180) days:

35 (A) that the appearance of the defendant was prevented:

36 (i) by the defendant's illness or death;

37 (ii) because the defendant was at the scheduled time of
 38 appearance or currently is in the custody of the United
 39 States, a state, or a political subdivision of the United
 40 States, or has been deported from the United States;

41 (iii) because the required notice was not given; or

42 (iv) because authorities refused to extradite the defendant,



- 1 and failed to inform the bail agent or surety of the
2 defendant's whereabouts so that the bail agent or surety
3 may retrieve the defendant or pay the cost of extradition;
4 and
5 **(B) the defendant's absence was not with the consent or**
6 **connivance of the sureties.**
- 7 **(d) If the bail agent or surety does not comply with subsection**
8 **(b)(1)(B) within one hundred eighty (180) days after the notice is**
9 **sent as required under subsection (b)(2):**
- 10 **(1) a late surrender fee shall be assessed against the bail agent**
11 **or surety in an amount equal to eighty percent (80%) of the**
12 **face value of the bond; and**
- 13 **(2) the bond shall be declared forfeited and judgment entered**
14 **in an amount equal to twenty percent (20%) of the face value**
15 **of the bond without pleadings and without change of judge or**
16 **change of venue.**
- 17 **If the surety fails to pay, the late surrender fee and forfeiture shall**
18 **be paid by the insurance commissioner as provided in subsection**
19 **(f).**
- 20 **(e) The late surrender fee assessed against a bail agent or surety**
21 **under subsection (d) shall be satisfied as provided in subsection (d)**
22 **without an order from the court. The court may waive the late**
23 **surrender fee or extend the period for payment beyond the**
24 **statutorily permitted period, or both, if the following conditions**
25 **are met:**
- 26 **(1) A written request or a request by electronic mail is filed**
27 **with the court and the prosecuting attorney.**
- 28 **(2) The surety or bail agent provides evidence satisfactory to**
29 **the court that diligent efforts were made to locate the**
30 **defendant.**
- 31 **(f) In the case of an insurer, if the late surrender fee or judgment**
32 **is not paid, the clerk shall mail the notice to the insurance**
33 **commissioner. The insurance commissioner shall:**
- 34 **(1) within ten (10) days of receipt of the notice, forward a copy**
35 **by certified mail to the insurer;**
- 36 **(2) forty-five (45) days after receipt of the notice from the**
37 **clerk, if the insurance commissioner has not been notified by**
38 **the clerk that the late surrender fee or judgment or both have**
39 **been paid, pay the late surrender fee assessment, and any**
40 **judgment of forfeiture from funds the insurer has on deposit**
41 **with the department of insurance;**
- 42 **(3) upon paying the assessment and judgment if any, from**



1 funds on deposit, immediately revoke the license of the insurer,
 2 if the satisfaction causes the deposit remaining to be less than
 3 the amount required by this article; and

4 (4) within ten (10) days after revoking a license, notify the
 5 insurer and the insurer's agents and the clerk of each county
 6 in Indiana of the revocation and the insurer shall be prohibited
 7 from conducting a bail bond business in Indiana until the
 8 deposit has been replenished.

9 (g) The notice mailed by the clerk to the insurance commissioner
 10 under subsection (f) must include:

11 (1) the date on which the defendant originally failed to appear
 12 as provided in the bond;

13 (2) the amount of the bond;

14 (3) the dollar amount of the late surrender fee due; and

15 (4) the dollar amount of the judgment of forfeiture.

16 (h) Any surety on a bond may appeal to the court of appeals as
 17 in other civil cases without moving for a new trial, and on the
 18 appeal the evidence, if any, shall be reviewed.

19 (i) The late surrender fee collected under this section shall be
 20 distributed as follows:

21 (1) Fifty percent (50%) of the late surrender fees collected
 22 under this section shall be deposited in the police pension trust
 23 fund established under IC 36-8-10-12.

24 (2) Ten percent (10%) of the late surrender fees collected
 25 under this section shall be deposited in the county extradition
 26 and sheriff's assistance fund established under IC 35-33-14 in
 27 the county in which the bond was posted.

28 (3) Twenty percent (20%) of the late surrender fees collected
 29 under this section shall be retained by the court in which the
 30 bond was posted to do one (1) or more of the following:

31 (A) Defray the costs of operating the court.

32 (B) Defray the costs of operating diversion programs.

33 (4) Seven and one-half percent (7.5%) of the late surrender
 34 fees collected under this section shall be deposited in the
 35 supplemental public defender services fund established under
 36 IC 33-40-3 in the county in which the bond was posted.

37 (5) Seven and one-half percent (7.5%) of the late surrender
 38 fees collected under this section shall be deposited in the clerk
 39 of the court operating account to offset operating expenses.

40 (6) Five percent (5%) of the late surrender fees collected under
 41 this section shall be deposited in the county electronic
 42 monitoring fund established under IC 11-12-11 in the county



1 **in which the bond was posted to defray the costs of operating**
 2 **electronic monitoring programs that involve indigent**
 3 **offenders.**

4 ~~(b)~~ **(j)** In a criminal case, if the court having jurisdiction over the
 5 criminal case receives written notice of a pending civil action or
 6 unsatisfied judgment against the criminal defendant arising out of the
 7 same transaction or occurrence forming the basis of the criminal case,
 8 funds deposited with the clerk of the court under section ~~3.2(a)(2)~~
 9 **3.2(a)(1)** of this chapter may not be declared forfeited by the court, and
 10 the court shall order the deposited funds to be held by the clerk. If there
 11 is an entry of final judgment in favor of the plaintiff in the civil action,
 12 and if the deposit and the bond are subject to forfeiture, the criminal
 13 court shall order payment of all or any part of the deposit to the
 14 plaintiff in the action, as is necessary to satisfy the judgment. The court
 15 shall then order the remainder of the deposit, if any, and the bond
 16 forfeited.

17 ~~(c)~~ **(k)** Any proceedings concerning ~~the a~~ bond, ~~or its the~~ forfeiture
 18 **of a bond, a judgment or on a forfeiture**, execution of a judgment, ~~or~~
 19 **a stay of proceedings** shall be held in the court that admitted the
 20 defendant to bail.

21 ~~(d)~~ **(l)** After a bond has been forfeited under subsection (a) or ~~(b)~~;
 22 **(d)**, the clerk shall mail notice of forfeiture to the defendant. ~~In~~
 23 ~~addition, unless the court finds that there was justification for the~~
 24 ~~defendant's failure to appear, The court shall immediately:~~

25 **(1)** enter judgment, without pleadings and without change of judge
 26 or change of venue, ~~against the defendant for the amount of the~~
 27 ~~bail bond, and one hundred twenty (120) days after the date the~~
 28 **notice was mailed; and**

29 **(2)** issue an execution of judgment order to the sheriff against
 30 **the properties owned by the depositor to be levied as other**
 31 **executions are levied against the defendant for the amount of**
 32 **the bail bond.**

33 The clerk shall record the judgment.

34 ~~(e)~~ **(m)** If a bond is forfeited and the court has entered a judgment
 35 under subsection ~~(d)~~ **(l)**, the clerk shall transfer to the state common
 36 school fund:

37 **(1)** any amount remaining on deposit with the court (less the fees
 38 retained by the clerk); and

39 **(2)** any amount collected in satisfaction of the judgment.

40 ~~(f)~~ **(n)** The clerk shall return a deposit, less the administrative fee,
 41 made under section ~~3.2(a)(2)~~ **3.2(a)(1)** of this chapter to the defendant,
 42 if the defendant appeared at trial and the other critical stages of the



1 legal proceedings.

2 **(o) After July 31, 2014, each surety and bail agent shall maintain**
 3 **an electronic mail address for purposes of conducting business**
 4 **under this section.**

5 SECTION 12. IC 35-33-8-8 IS REPEALED [EFFECTIVE JULY 1,
 6 2014]. Sec. 8: (a) If a defendant was admitted to bail under section
 7 3.2(a) of this chapter and the defendant has knowingly and
 8 intentionally failed to appear before the court as ordered, the court:

9 (1) shall issue a warrant for the defendant's arrest;

10 (2) may not release the defendant on personal recognizance; and

11 (3) may not set bail for the rearrest of the defendant on the warrant
 12 at an amount that is less than the greater of:

13 (A) the amount of the original bail; or

14 (B) two thousand five hundred dollars (\$2,500);

15 in the form of a bond issued by an entity defined in IC 27-10-1-7
 16 or the full amount of the bond in cash.

17 (b) In a criminal case, if the court having jurisdiction over the
 18 criminal case receives written notice of a pending civil action or
 19 unsatisfied judgment against the criminal defendant arising out of the
 20 same transaction or occurrence forming the basis of the criminal case,
 21 funds deposited with the clerk of the court under section 3.2(a)(2) of
 22 this chapter may not be declared forfeited by the court, and the court
 23 shall order the deposited funds to be held by the clerk. If there is an
 24 entry of final judgment in favor of the plaintiff in the civil action; and
 25 if the deposit is subject to forfeiture, the criminal court shall order
 26 payment of all or any part of the deposit to the plaintiff in the action, as
 27 is necessary to satisfy the judgment. The court shall then order the
 28 remainder of the deposit, if any, forfeited.

29 SECTION 13. IC 35-33-8-12 IS ADDED TO THE INDIANA CODE
 30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 31 1, 2014]: **Sec. 12. A sign shall be posted in a conspicuous place in**
 32 **any area where bail bonds are executed and accepted that contains**
 33 **the following information:**

34 **(1) The depositors for bail bonds (under section 3.2(a)(1) of this**
 35 **chapter) are undertaking full responsibility for payment of the**
 36 **full bail amount if there is a failure of the defendant to appear,**
 37 **a forfeiture, or a judgment.**

38 **(2) The depositor is required to sign a sufficient surety affidavit**
 39 **under the penalty of perjury stating the depositor:**

40 **(A) has assets equal to the full bail amount; and**

41 **(B) is a resident of:**

42 **(i) Indiana; and**



- 1 (ii) the county where the bond is to be executed.
- 2 (3) The depositor may agree to allow the court to retain all or
- 3 a part of the deposit to pay publicly paid costs of
- 4 representation and fines, costs, fees, and restitution that the
- 5 court may order the defendant to pay if the defendant is
- 6 convicted.
- 7 (4) The clerk shall:
- 8 (A) retain or require a five dollar (\$5) fee from all bail bonds
- 9 posted; and
- 10 (B) retain a part of the deposit, not to exceed ten percent
- 11 (10%) of the monetary value of the deposit or fifty dollars
- 12 (\$50), whichever is the lesser amount, as an administrative
- 13 fee.

14 SECTION 14. IC 35-33-8.5-4 IS AMENDED TO READ AS

15 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) One (1) surety on

16 every such recognizance must be a resident freeholder of the county in

17 which the prosecution is pending, and the surety or sureties must be

18 worth at least double the sum to be secured and must have property in

19 this state liable to execution equal to the sum to be secured, and when

20 two (2) or more sureties are offered to the same recognizance, they

21 must have in the aggregate the qualifications prescribed in this section.

22 Whenever by the laws of this state a surety company is authorized to

23 become surety on recognizance bonds, such surety company may be

24 accepted as sufficient surety on any such bond.

25 (b) The recognizance shall be in form substantially as provided in

26 ~~IC 27-10-2-10~~; **IC 35-33-8-6.7**, conditioned for judgment on ten (10)

27 days notice to the surety. No pleadings shall be necessary and no

28 change of judge or change of venue shall be granted. The obligor may

29 except to the ruling of the court and appeal to the court of appeals as in

30 civil cases without moving for a new trial.

31 SECTION 15. IC 35-33-8.5-5 IS AMENDED TO READ AS

32 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. The recognizance as

33 provided for in ~~IC 27-10-2-10~~ **IC 35-33-8-6.7** shall be continuing, and

34 the defendant shall not be required to renew it during pendency of the

35 proceedings, unless ordered to do so by the court for cause shown. But,

36 at each term of the court, after such recognizance is taken, the court

37 shall inquire into the sufficiency of the sureties.

38 SECTION 16. IC 35-33-14-5 IS AMENDED TO READ AS

39 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. The fund consists of

40 the portion of late surrender fees deposited in the fund under

41 ~~IC 27-10-2-12(i)~~; **IC 35-33-8-7(i)(2)**.

