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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- BAIL AND RECOGNIZANCE

Introduced By: Senator Michael J. McCaffrey

Date Introduced: June 01, 2011

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 12-13-16.1 of the General Laws in Chapter 12-13 entitled "Bail and  
2    Recognizance" is hereby amended to read as follows:

3           **12-13-16.1. Forfeiture of bail** **Forfeiture and reinstatement of bail.** – (a) In any  
4    criminal case, whenever, after a hearing, it has been shown to the satisfaction of the court that the  
5    defendant has left the jurisdiction of the court or has failed to appear as required or has failed to  
6    perform the condition of his or her recognizance, the court shall order that the bail and/or any  
7    security for bail be forfeited. If the basis for the forfeiture of bail is the result of the defendant  
8    failing to appear, or for violating the terms and conditions of bail, the following procedures shall  
9    be employed before said forfeiture or bail is ordered:

10           (1) Upon the issuance of a warrant for a defendant's failure to appear, the attorney  
11    general shall immediately thereafter bring any additional criminal charges for the failure to  
12    appear.

13           (2) Once a warrant is issued, the attorney general shall, within sixty (60) days, file a  
14    motion to default bail and notify the bail bondsman of the same. If a motion is not filed within  
15    sixty (60) days, no forfeiture of that bail shall be entered.

16           (3) Bail bondsman shall have three (3) months to locate an absent defendant after a  
17    motion to default bail is filed by the attorney general. After three (3) months, the court may  
18    schedule a status conference during which a bail bondsman, through counsel, may file a written  
19    explanatory investigative report. The court may grant an additional six (6) months to locate the

1 defendant unless the court determines that the bail bondsman is uncooperative. After said six (6)  
2 month period, a hearing may be held with witnesses. At the discretion of the court, an additional  
3 six (6) months may be granted to locate the absent defendant.

4 (4) Forfeiture can be no greater than ten percent (10%) of the bail minus reasonable  
5 attorney fees and investigative fees.

6 (5) Forfeiture of bail is set aside if:

7 (i) Bail bondsman brings defendant before the court;

8 (ii) The defendant is arrested and brought before the court;

9 (iii) The defendant is arrested in another state and the bail bondsman gives the court  
10 proof of the same;

11 (iv) The defendant dies and the bail bondsman provides proof of the same with a certified  
12 death certificate; or

13 (v) The defendant is deported and the bail bondsman provides proof of the same.

14 (6) If, after the requisite time and proper procedure, a forfeiture does enter, the bail  
15 bondsman shall be afforded one hundred twenty (120) days to pay the amount of forfeiture  
16 ordered. If after one hundred twenty (120) days the amount ordered is not paid in full, the bail  
17 bondsman's license may be revoked or declared ineligible for reissuance.

18 (7) If, while admitted to bail, a defendant is arrested for any crime the bail bondsman  
19 shall be notified in writing by the court. At that time, the bail bondsman shall have the right to  
20 terminate any bail he or she may have posted for that defendant.

21 (8) If, while admitted to bail, a defendant violates any of the terms and conditions of that  
22 bail, the bail bondsman shall have the right to terminate the bail with proper notification and  
23 procedure as ordered by the court.

24 (9) If a defendant is arrested and held in any other court as a violator, the bail bondsman  
25 shall be given notice and shall have the right to terminate the bail with the defendant by appearing  
26 before the court.

27 (10) If a defendant is rearraigned in superior court on the same bail as district court, the  
28 bail bondsman shall receive written notification by the court in the same manner as the defendant  
29 or the attorney of record.

30 (11) Any notification by the court to the defendant or to the attorney of record shall also  
31 be sent to the bail bondsman.

32 (12) If a defendant is arrested after being bailed by a bail bondsman, the bail bondsman is  
33 not obligated again to post bail for the defendant in superior court.

34 (13) If a defendant does not pay the bail bondsman for the original bail in district court,

1 the bail bondsman shall have the sole discretion to rebail him or her in superior court.

2 (14) If the bail bondsman determines that the defendant may be a flight risk or that the  
3 defendant has committed another crime, the bail bondsman shall have the sole option to rebail  
4 him or her in superior court.

5 (15) If a bail bondsman has posted bail for a defendant in district court and a judge  
6 increases the bail in superior court, the bail bondsman is not required to rebail the defendant at the  
7 higher amount and the bail bondsman may terminate the district court’s bail.

8 (16) Any form sent by the court to a defendant where the bail bondsman is required to  
9 repost a bail shall also include the name and telephone number of the bail bondsman. The  
10 defendant shall notify the bail bondsman one week prior to the arraignment and the day before  
11 the reposting of the bail.

12 (17) If a defendant is arrested on any charge and held without bail, the bail bondsman  
13 shall be notified in writing by the court at which time, and at their discretion, a bail bondsman  
14 may terminate the bail by going before the court without the defendant being present if that  
15 defendant is incarcerated.

16 (18) A judge shall not reinstate a defendant’s bail with a bail bondsman without first  
17 sending notice to the bail bondsman. The bail bondsman has the discretion to terminate his or her  
18 bail with the defendant or allow reinstatement of the bail with proper notice to the court.

19 (19) No bail bondsman shall employ any defendant that a bail bondsman has bailed for  
20 the purpose of furthering his or her bail bonding business, and shall never use said defendant to  
21 solicit business for that bail bondsman.

22 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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RELATING TO CRIMINAL PROCEDURE -- BAIL AND RECOGNIZANCE

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1           This act would require the court and the attorney general to take additional steps in order  
2 to forfeit a bail bondsman surety and gives the bail bondsman additional rights regarding the  
3 posting and terminating of bail.

4           This act would take effect upon passage.

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