

BAIL FORFEITURE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Walt Brooks

Senate Sponsor: _____

LONG TITLE

General Description:

This bill allows a prosecuting agency to receive a portion of forfeited bail.

Highlighted Provisions:

This bill:

- ▶ allows a prosecuting agency to receive up to 20% of the forfeited bail when bail is forfeited for nonappearance of the defendant; and
- ▶ decreases the time period for producing a defendant who has posted bail but not appeared in court.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-20b-102, as last amended by Laws of Utah 2016, Chapter 234

77-20b-104, as last amended by Laws of Utah 2016, Chapter 234

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

Section 1. Section **77-20b-102** is amended to read:

77-20b-102. Time for bringing defendant to court.



(1) If notice of nonappearance has been mailed to a surety under Section 77-20b-101, the surety may bring the defendant before the court or surrender the defendant into the custody of a county sheriff within the state within ~~[six months]~~ 60 days of the date of nonappearance, during which time a forfeiture action on the bail bond may not be brought.

(2) A surety may request an extension of the ~~[six-month]~~ 60-day time period in Subsection (1), if the surety within that time:

- (a) files a motion for extension with the court; and
- (b) mails the motion for extension and a notice of hearing on the motion to the prosecutor.

(3) The court may extend the six-month time in Subsection (1) for not more than 60 days, if the surety has complied with Subsection (2) and the court finds good cause.

Section 2. Section 77-20b-104 is amended to read:

77-20b-104. Forfeiture of bail.

(1) If a surety fails to bring the defendant before the court within the time provided in Section 77-20b-102, the prosecuting attorney may request the forfeiture of the bail by:

- (a) filing a motion for bail forfeiture with the court, supported by proof of notice to the surety of the defendant's nonappearance; and
- (b) mailing a copy of the motion to the surety.

(2) A court shall enter judgment of bail forfeiture without further notice if it finds by a preponderance of the evidence:

- (a) the defendant failed to appear as required;
- (b) the surety was given notice of the defendant's nonappearance in accordance with Section 77-20b-101;

(c) the surety failed to bring the defendant to the court within the ~~[six-month]~~ 60-day period under Section 77-20b-102; and

- (d) the prosecutor has complied with the notice requirements under Subsection (1).

(3) If the surety shows by a preponderance of the evidence that it has failed to bring the defendant before the court because the defendant is deceased through no act of the surety, the court may not enter judgment of bail forfeiture and the bail bond is exonerated.

(4) The amount of bail forfeited is the face amount of the bail bond, but if the defendant is in the custody of another jurisdiction and the state extradites or intends to extradite

the defendant, the court may reduce the amount forfeited to the actual or estimated costs of returning the defendant to the court's jurisdiction. A judgment under Subsection (5) shall:

(a) identify the surety against whom judgment is granted;

(b) specify the amount of bail forfeited;

(c) specify an amount, not to exceed 20% of the total bail forfeited, to be paid to the prosecuting agency;

~~[(c)]~~ (d) grant the forfeiture of the bail; and

~~[(d)]~~ (e) be docketed by the clerk of the court in the civil judgment docket.

(5) A prosecutor may immediately commence collection proceedings to execute a judgment of bail bond forfeiture against the assets of the surety.

Legislative Review Note
Office of Legislative Research and General Counsel