
DIGEST

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HB 303 Engrossed

2021 Regular Session

Lyons

Abstract: Provides relative to the conditions by which the surety satisfies payment of extradition costs, and provides relative to a non-warrant affidavit or request.

Present law provides that the detention of the defendant is at the request of the surety by the officer originally charged with his detention on the original commitment.

Present law further provides that when the surety has requested the surrender of the defendant, the officer shall acknowledge the surrender by a certificate.

Present law defines constructive surrender and provides the circumstances under which constructive surrender occurs are as follows:

- (1) A warrant for arrest has been issued for the defendant in the jurisdiction in which the bail obligation is in place.
- (2) The surety has provided proof of the defendant's current incarceration to the court in which the bail obligation is in place, to the prosecuting attorney, and to the officer originally charged with the defendant's detention.
- (3) The surety has paid to the officer the reasonable costs of returning the defendant to the jurisdiction where the warrant for arrest was issued.

Proposed law changes the present law (C.Cr.P. Art. 311(4)(c)) circumstance by which constructive surrender would occur from when the surety has paid to the officer the reasonable costs of returning the defendant to the jurisdiction where the warrant for arrest was issued to when the surety has paid reasonable or actual costs of returning the defendant to the jurisdiction where the warrant for arrest was issued by one of the following methods:

- (1) Within twenty-four hours upon presentation of proof of the defendant's current incarceration in a foreign jurisdiction to the officer originally charged with the defendant's detention, the officer shall provide the surety with the reasonable or actual costs of returning the defendant to the jurisdiction where the warrant for arrest was issued.
- (2) The surety tenders to the officer originally charged with the defendant's detention the reasonable or actual costs of returning the defendant to the jurisdiction where the warrant for arrest was issued.

- (3) The surety provides proof of payment to the court and to the prosecuting attorney.
- (4) In cases where the reasonable or actual costs of returning the defendant to the jurisdiction where the warrant for arrest was issued are not immediately known, the surety may deposit the estimated costs of returning the defendant to the jurisdiction where the warrant for arrest was issued in the registry of the court. Estimated costs may be calculated based on one dollar per mile.

Proposed law provides relative to costs being deposited into the registry of the court.

Proposed law provides for circumstances under which a surety's motion and affidavit for issuance of warrant may be filed and provides for the conditions by which the surety can file an ex parte motion to request a warrant.

(Amends C.Cr.P. Art. 311(3)-(7); Adds C.Cr.P. Art. 311(8))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes to the title.
2. Reinstate present law references to "officer" from proposed law references to "agency".
3. Reorganize proposed law provisions relative to breach of the bail undertaking.
4. Specify the methods by which constructive surrender occurs when the surety has paid reasonable or actual costs of returning the defendant to the jurisdiction where the warrant for arrest was issued.
5. Provide relative to the depositing of costs in the registry of the court.
6. Specify that the defendant obtain written permission from the court in order to leave the state.