

RÉSUMÉ DIGEST

ACT 90 (SB 360)

2022 Regular Session

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Prior law provided relative to bail undertaking and provides that upon conviction in any case, the bail undertaking ends and the surety is relieved of all obligation under the bail undertaking. Provides that the court may require the defendant to post another bail undertaking or may release the defendant on bail without security and provides that, with written approval of the surety, the existing bail undertaking may continue. Prior law further provides for surrender of the defendant by the surety.

New law retains prior law and provides that during the statewide public health emergency due to COVID-19, the officer charged with the defendant's detention may refuse the surrender of the defendant. Provides that the officer must give the defendant and the surety a certificate of refusal and written notice for a new appearance date.

Prior law provided that during the COVID-19 public health emergency, the time period for the appearance or surrender of a defendant is interrupted. Provides that the surety's opportunity to resolve a failure to appear is automatically extended for 180 days following the declared end of the state of emergency or from the date proper notice of failure to appear is given to the defendant, surety agent, and surety, whichever is later, without the need to file a motion.

New law deletes provisions of prior law that interrupted the time period for the appearance or surrender of a defendant and the automatic extension of time for the surety to resolve a failure to appear.

Depending on the date the defendant failed to appear in court, new law sets the date for when the 180-day time period begins to run before a rule to show cause to obtain a judgment of bond forfeiture may be filed.

Prior law allowed a surety to file a motion in the criminal court of records seeking additional time to surrender a defendant, provided specific circumstances related to COVID-19 and pertaining to the defendant in the criminal matter are cited.

New law retains prior law and provides that a motion seeking prior law relief must be filed prior to or at the hearing on a rule to show cause to obtain a judgment of bond forfeiture and must include a sworn affidavit of efforts to locate the defendant, an engagement contract between the bondsman and the recovery team, and the last communication between the defendant's next of kin or indemnitor.

New law provides that if the motion meets the requirements, the court must grant the motion and allow additional time to surrender the defendant. The rule to show cause must be continued until after the expiration of the extension of time. If the motion does not meet the requirements, the court will deny the motion.

Effective May 24, 2022.

(Amends C.Cr.P. Art. 331(I), (J), and (K); adds C.Cr.P. Art. 331(L))