
DIGEST

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HB 303 Original

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 amends present law to provide that the request of the detention of the defendant and acknowledgment of the surrender by certificate are to be made by the agency instead of the officer.

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 satisfies payment of reasonable or actual extradition costs by one of the following conditions:

- (1) When proof of the defendant's current incarceration has been submitted to the agency originally charged with the defendant's detention.
- (2) In cases where the reasonable costs of returning the defendant to the jurisdiction where the warrant for arrest was issued are not immediately known.

- (3) In cases where the agency originally charged with the defendant's detention shall provide notice to the surety of the actual cost of extradition within ten business days of the defendant's return.

Proposed law provides for circumstances under which non-warrant affidavit or request would occur, 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))