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## DIGEST

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HB 303 Reengrossed

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) Upon 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 when the costs are immediately known or can be estimated.
- (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 officer originally charged with the defendant's detention shall accept the surety's tender of reasonable costs as provided in present law for in-state transfers or for estimated costs for out-of-state transfers.

Proposed law provides relative to the payment of costs.

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 a motion to request a warrant.

(Amends C.Cr.P. Art. 311(4)-(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.

#### The House Floor Amendments to the engrossed bill:

1. Remove provision that presentation of the proof of the defendant's current incarceration in a foreign jurisdiction be presented within 24 hours.
2. Specify that when the costs are immediately known or can be estimated, the officer shall provide to the surety the reasonable or actual costs.
3. Require the officer originally charged with the defendant's detention to accept the surety's tender of reasonable costs as provided by present law.

4. Change the phrase "registry of the court" to "payment".
5. Authorize the surety to file a motion, and remove reference to an ex parte motion.