
DIGEST

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Lopinto

HB No. 363

Abstract: Provides with respect to the surrender of a defendant and provides for obligations of the surety.

Present law provides that during the period provided for surrendering the defendant, the surety may request that the officer originally charged with the detention of a felony defendant place the name of the defendant into the National Crime Information Center (NCIC) registry.

Present law requires the surety to pay a fee of \$25 for processing the placement. If, after payment of the \$25 fee, the name of the defendant is removed from the NCIC registry without cause during the period provided for surrendering the defendant, the surety shall be relieved of all obligations under the bond.

Proposed law retains present law and provides that if the defendant's extradition is refused by the office of the district attorney or the name of the defendant is not entered into the NCIC registry without cause during the period provided for surrendering the defendant, the surety shall be relieved of all obligations under the bond.

Present law authorizes a surety to seek an extension of time to surrender a defendant, or have the judgment of bond forfeiture set aside by filing a motion in the criminal court of record and after contradictory hearing with the district attorney and with proof satisfactory to the court that a fortuitous event has occurred and that the event has made it impossible to perform as required under the contract. Provides that a motion seeking relief pursuant to present law must be filed within 366 days from the date of the fortuitous event, excluding legal delays.

Present law provides that the court in its discretion may do any of the following:

- (1) Set aside the forfeiture or grant the nullity.
- (2) Grant an extension of up to 366 days from the expiration of the initial time period allowed for the surrender of the defendant from the date of the mailing of proper notice of bond forfeiture. If the court grants that extension, judicial interest shall be suspended during that additional time period.
- (3) Deny the relief.

Proposed law removes the requirement of proving a fortuitous event has occurred and deletes the

requirement that the motion be filed within 366 days. Provides that a surety must prove to the court that such an extension of time or set aside is justified under the facts of the case.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends C.Cr.P. Art. 345(G) and (I)(intro. para.))