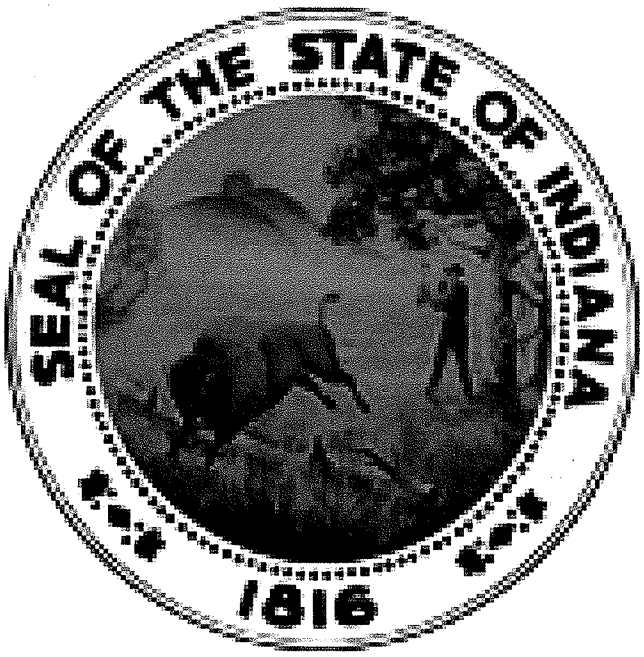
STATE OF INDIANA

Bail & Recovery Agent

Laws



Indiana Department of Insurance
Bail Bond Division
311 W. Washington Street, Suite 300
Indianapolis, Indiana 46204-2787
317-232-5249

July 1, 2010

Indiana Department of Insurance
Bail Bond Division
311 West Washington Street, Suite 300
Indianapolis, IN 46204-2787
317-232-5249

DISCLAIMER

This booklet is not intended to be a complete compilation of every statue concerning bail: instead, it is intended to provide a quick and handy resource containing the most frequently used sections of the Indiana Bail Laws and Regulations.

This booklet was prepared by the Indiana Department of Insurance solely for those persons licensed or applying for a license as a Bail Agent or a Recovery Agent in the State of Indiana. The Statutes cited herein are as of July 1, 2010.

If the reader has any questions about law regarding bail, an attorney should be consulted.

IC 27-10
ARTICLE 10. INDIANA BAIL LAW

IC 27-10-1
Chapter 1. Definitions

IC 27-10-1-1
Application of definitions
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.261-1985, SEC.1.

IC 27-10-1-2
"All lines fire and casualty insurance producer"
Sec. 2. "All lines fire and casualty insurance producer" means an insurance producer who holds a valid license issued by the department of insurance to engage in the writing and transacting of all of the following lines and kinds of insurance:
(1) Property insurance.
(2) Casualty insurance.
(3) Surety insurance.
(4) Disability insurance.
(5) Inland marine insurance.
As added by P.L.261-1985, SEC.1. Amended by P.L.178-2003, SEC.80.

IC 27-10-1-3
Repealed
(Repealed by P.L.305-1987, SEC.38.)

IC 27-10-1-4
"Bail agent"
Sec. 4. "Bail agent" means a person who has been:
(1) approved by the commissioner; and
(2) appointed by an insurer by power of attorney;
to execute or countersign bail bonds for the insurer in connection with judicial proceedings for which the person receives a premium.
As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.2.

IC 27-10-1-4.3
"Bureau"
Sec. 4.3. "Bureau" refers to the child support bureau established by IC 31-25-3-1.
As added by P.L.23-1996, SEC.25. Amended by P.L.145-2006, SEC.166.

IC 27-10-1-5
"Commissioner"
Sec. 5. "Commissioner" means the insurance commissioner.
As added by P.L.261-1985, SEC.1.

IC 27-10-1-5.5
"Delinquent"

Sec. 5.5. "Delinquent" means at least:
(1) two thousand dollars ($2,000); or
(2) three (3) months;
past due on payment of court ordered child support.
As added by P.L.23-1996, SEC.26.

IC 27-10-1-6
"Disqualifying offense"

Sec. 6. "Disqualifying offense" means:
(1) a felony; or
(2) a misdemeanor if an element of the offense involves dishonesty, violence, or a deadly weapon.
As added by P.L.261-1985, SEC.1.

IC 27-10-1-7
"Insurer"

Sec. 7. "Insurer" means any domestic, foreign, or alien surety company which has qualified generally to transact surety business under the requirements of this title and specifically to transact bail bond business in this state.
As added by P.L.261-1985, SEC.1. Amended by P.L.149-1986, SEC.60.

IC 27-10-1-7.5
"License"

Sec. 7.5. "License" has the meaning set forth in IC 25-1-2-6.
As added by P.L.23-1996, SEC.27.

IC 27-10-1-8
"Premium"

Sec. 8. "Premium" means:
(1) currency issued by the United States of America paid to a bail agent prior to the execution of a bail bond;
(2) a check delivered to a bail agent prior to the execution of the bail bond that must be:
(A) properly payable when delivered; and
(B) deposited in the bail agent's bank account; or
(3) a credit card transaction if the bail agent:
(A) accepts the credit card; and
(B) obtains:
(i) authorization from the credit card issuer for the amount due; and
(ii) an approval number from the credit card issuer for the credit card transaction;
before the execution of the bail bond.
As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.3; P.L.348-1995, SEC.1.

IC 27-10-1-9
"Recovery agent"

Sec. 9. "Recovery agent" means a person who is offered or given any compensation by a bail agent or surety in exchange for assisting the bail agent or surety in apprehending or surrendering any defendant or keeping a defendant under necessary surveillance. This does not affect the right of bail agents or sureties to hire counsel or to ask assistance of law enforcement officers.
As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.4.

IC 27-10-1-10
"Surety"

Sec. 10. "Surety" means any person who satisfies the qualifications of IC 27-10-2-4 and who agrees to pay the bond in the event the defendant fails to appear in court at the scheduled date and time.
As added by P.L.261-1985, SEC.1.

IC 27-10-1-11
"Transfer fee"

Sec. 11. "Transfer fee" means a service charge made by an insurer, in addition to the premium, when a bond is executed by an agent of the insurer for another agent in a different jurisdiction.
As added by P.L.261-1985, SEC.1.

IC 27-10-2
Chapter 2. General Provisions

IC 27-10-2-1
Administration of article; rules; employees

Sec. 1. (a) The commissioner:

(1) shall administer this article, which regulates bail agents, recovery agents, and sureties; and

(2) may adopt rules to enforce this article.

(b) The commissioner may employ and discharge employees, examiners, counsel, and other assistants as necessary and shall prescribe their duties and their compensation.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.5.

IC 27-10-2-2
Prima facie evidence

Sec. 2. Any written instrument purporting to be a copy of any action, proceeding, or finding of fact by the commissioner, or any record of the commissioner authenticated under the hand of the commissioner by the seal of the commissioner's office shall be accepted by all the courts of this state as prima facie evidence of the contents thereof.

As added by P.L.261-1985, SEC.1.

IC 27-10-2-3
Undertakings; validity; defect of form or other irregularity; expiration

Sec. 3. (a) An undertaking is valid if it states:

(1) the court where the defendant is to appear;

(2) the amount of the bail; and

(3) that it was made before an official legally authorized to take the bond.

(b) A surety remains liable on an undertaking despite:

(1) any lack of the surety's qualifications as required by section 4 of this chapter;

(2) any other agreement that is expressed in the undertaking;

(3) any failure of the defendant to join in the undertaking; or

(4) any other defect of form or record, or any other irregularity, except as to matters covered by subsection (a).

(c) Any undertaking written after August 31, 1985, shall expire thirty-six (36) months after it is posted for the release of a defendant from custody. This section does not apply to cases in which a bond has been declared to be forfeited and the surety and bail agent have been notified as described in section 12 of this chapter.

As added by P.L.261-1985, SEC.1. Amended by P.L.355-1989(ss), SEC.1; P.L.105-2010, SEC.6.

IC 27-10-2-4
Qualifications of surety

Sec. 4. Every surety for the release of a person on bail shall be qualified as:

(1) an insurer as defined and meeting the qualifications prescribed in IC 27-1-5-1, and represented by a bail agent as defined in and meeting the qualifications prescribed in this article; or

(2) a person who:

(A) has reached the age of eighteen (18) years;

(B) is a citizen of the United States;

(C) has been a bona fide resident of Indiana for at least one (1) year immediately preceding the execution of the bond;

(D) is related to the person for whom release on bail is sought within the third degree of affinity; and

(E) owns real or tangible personal property in Indiana with a net asset value that is acceptable to the proper authority approving the bond.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.6.

IC 27-10-2-5
Surrender of defendants

Sec. 5. (a) Any time before there has been a breach of the undertaking in any type of bail and cash bond, the surety may surrender a defendant, or the defendant may surrender, to the official to whose custody the defendant was committed at the time bail was taken or to the official into whose custody the defendant would have been given if committed.

(b) A defendant shall be surrendered without the return of premium for the bond if the defendant has been guilty of:

(1) changing address without notifying the defendant's bail agent or surety;

(2) concealing one's self;

(3) leaving the jurisdiction of the court without the permission of the defendant's bail agent or surety or the court; or

(4) violating the defendant's contract with the bail agent or surety in a way that does harm to the bail agent or the surety or violates the defendant's obligation to the court.

As added by P.L.261-1985, SEC.1. Amended by P.L.355-1989(ss), SEC.2; P.L.224-1993, SEC.7.

IC 27-10-2-6
Surrender of defendants; detention; exoneration of sureties

Sec. 6. (a) The person desiring to make a surrender of the defendant shall be provided a certified copy of the undertakings and a certified copy of the arrest warrant forthwith by the clerk of the court having jurisdiction and shall deliver them together with the defendant to the official in whose custody the defendant was at the time bail was taken or to the official into whose custody the defendant would have been given if committed, who shall detain the defendant in the official's custody thereon, as upon a commitment,

and shall acknowledge the surrender in a written certificate.

(b) The court having jurisdiction of the offense shall order that a surety be exonerated from liability for an undertaking and that any money or bonds deposited as bail be refunded when the person surrendering the defendant has:

(1) presented to the court both of the documents described in subsection (a); and

(2) given to the prosecuting attorney:

(A) three (3) days notice; and

(B) copies of both of the documents described in subsection (a).

As added by P.L.261-1985, SEC.1. Amended by P.L.348-1995, SEC.2.

IC 27-10-2-7
Apprehension of defendant; time; fees

Sec. 7. For the purpose of surrendering the defendant, the surety may apprehend the defendant before or after the forfeiture of the undertaking or may empower any law enforcement officer to make apprehension by providing written authority endorsed on a certified copy of the undertaking and paying the lawful fees therefor.

As added by P.L.261-1985, SEC.1.

IC 27-10-2-8
Notice of trial or hearing; breach of undertaking; record

Sec. 8. (a) The court shall give the bail agent or insurer legal written notice of the defendant's trial or hearing for purposes of entering a plea at least seventy-two (72) hours before the defendant's appearance is required unless the appearance is scheduled within seventy-two (72) hours from the execution of the bond.

(b) The defendant's failure to appear constitutes a breach of the undertaking. The court before which the cause is pending shall make a record of the breach at which time section 12 of this chapter then applies.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.8; P.L.105-2010, SEC.7.

IC 27-10-2-9
Property bonds; recordings; liens

Sec. 9. (a) If the undertaking is a property bond, the clerk shall record the same in the proper records of the county. If the undertaking describes property in another county, the clerk of the trial court shall transmit the undertaking to the clerk of such other county, who shall likewise record it and return it to the first mentioned clerk.

(b) The undertaking shall be a lien on any real property described in it, until released in accordance with IC 35-33-8.5.

As added by P.L.261-1985, SEC.1. Amended by P.L.5-1988, SEC.150.

IC 27-10-2-10
Recognizances; affidavits; forms

Sec. 10. (a) Recognizances for the appearance of prisoners shall in all cases and in all courts be in writing, be taken with at least one (1) resident freehold surety or be secured by a surety company, and be substantially in the following form:

STATE OF INDIANA)
) SS:
COUNTY OF _____)
State of Indiana.
vs.
John Doe

We, A B and C D, jointly and severally acknowledge ourselves bound to the state of Indiana in _____ dollars. If A B (the prisoner) shall appear on the ____ day of _____, 20___, in the _____ court, to answer a charge of (here state the offense) and from day to day and from term to term thereof, and abide the order of the court until the cause is determined and not depart therefrom without leave, then this recognizance shall be void, else to remain in full force.

If the above named defendant does not appear at any time fixed in this bond, the court shall order CD (the surety) to produce the defendant. The court shall mail notice of this order to CD, the surety at _____ and _____ in _____ county and state of Indiana. If the surety does not produce the defendant, and does not pay all costs and late surrender fees in compliance with IC 27-10-2-12, the court shall, three hundred sixty-five (365) days after the mailing of the above notice to the surety, declare the bond forfeited, enter judgment forthwith against the surety, and certify the judgment to the clerk for record. Such forfeiture shall be without pleadings and without change of judge or change of venue. The obligors on such bond may appeal to the ruling of the court and appeal to the court of appeals as in other civil cases, and on appeal the evidence may be reviewed. Execution shall issue forthwith to the sheriff against the properties of each of us to be levied as other executions are levied.

Witness our hand and seals this ___ day of _____, 20___.
A B _____ (SEAL)
C D _____ (SEAL)
taken and approved this ___ day of _____, 20___.

_____
(Officer taking surety)

Affidavits shall be taken from each personal surety substantially as follows:
State of Indiana)
County of _____)

I, C D, being duly sworn, on oath say, that I am worth in my personal rights and name, over and above all debts and liabilities of any and every kind, not less than _____ dollars, and that I possess real estate in my own name, located in the above-named county, which is
worth over and above all encumbrances and liens, more than _____ dollars; that I am surety on the following recognizance bonds and none other, aggregating the total amount of _____ to-wit: (Here name bonds and amounts, if any) _____, And that I am not surety on any recognizance bond of any kind in any court which bond has been forfeited which judgment remains unpaid.

C D _____ (SEAL)
Subscribed and sworn to before me, this ___ day of _____, 20___.

_____
(Officer administering oath)

(b) Printed forms of the above bonds shall be kept by all clerks of court that are authorized by law to admit prisoners to bail and shall be supplied by the clerks to sheriffs.

(c) For the purposes of this article, a cause is determined when a:

(1) judgment of conviction or acquittal is entered for a misdemeanor;
(2) judgment is withheld in a misdemeanor case;
(3) judgment of acquittal is entered in a felony case;
(4) sentence is imposed in a felony case; or
(5) defendant has been ordered or admitted to a diversion program.

As added by P.L.261-1985, SEC.1. Amended by P.L.355-1989(ss), SEC.3; P.L.2-2005, SEC.73.

IC 27-10-2-11
Transcript of proceedings; docketing; liens

Sec. 11. Such recognizance, together with a transcript of the proceedings and all papers in the case, shall be filed forthwith with the clerk of the proper court, who shall docket the cause and record such recognizance forthwith and enter it on the judgment docket, all as provided in IC 35-33-8.5. From the date of the entries in the records of the respective counties as provided in IC 35-33-8.5, it shall be a lien upon all lands in the counties where recorded owned by any of the obligors, and any judgment afterward had upon it shall relate back to the date of entry in such county, or counties, where any such lands are situated.

As added by P.L.261-1985, SEC.1. Amended by P.L.5-1988, SEC.151.

IC 27-10-2-12
Failure of defendant to appear; notice; late surrender fees; forfeiture proceedings; satisfaction of judgment; revocation of license

Sec. 12. (a) Only if a defendant does not appear as provided in the bond:

(1) the court shall:
(A) issue a warrant for the defendant's arrest; and
(B) order the bail agent and the surety to surrender the defendant to the court immediately;

(2) the clerk shall, less than thirty (30) days after the defendant's failure to appear, mail notice of the order to both:
(A) the bail agent; and
(B) the surety; at each of the addresses indicated in the bonds; and

(3) if the defendant later is arrested or otherwise appears:
(A) the court shall order that the surety be released from the bond; and
(B) after the court issues an order under clause (A), the surety's original undertaking shall be reinstated if the surety files a written request for the reinstatement of the undertaking with the court.

This subsection may not be construed to prevent a court from revoking or resetting bail.

(b) The bail agent or surety must:

(1) produce the defendant; or
(2) prove within three hundred sixty-five (365) days:
(A) that the appearance of the defendant was prevented:
(i) by the defendant's illness or death;
(ii) because the defendant was at the scheduled time of appearance or currently is in the custody of the United States, a state, or a political subdivision of the United States or a state;
(iii) because the required notice was not given; or
(iv) because authorities have refused to extradite the defendant, by a preponderance of the evidence; and
(B) the defendant's absence was not with the consent or connivance of the sureties.

(c) If the bail agent or surety does not comply with the terms of subsection (b) within one hundred twenty

(120) days after the mailing of the notice required under subsection (a)(2), a late surrender fee shall be assessed against the bail agent or surety as follows:

(1) If compliance occurs more than one hundred twenty (120) days but not more than one hundred eighty (180) days after the mailing of notice, the late surrender fee is twenty percent (20%) of the face value of the bond.

(2) If compliance occurs more than one hundred eighty (180) days but not more than two hundred ten (210) days after the mailing of notice, the late surrender fee is thirty percent (30%) of the face value of the bond.

(3) If compliance occurs more than two hundred ten (210) days but not more than two hundred forty (240) days after the mailing of notice, the late surrender fee is fifty percent (50%) of the face value of the bond.

(4) If compliance occurs more than two hundred forty (240) days but not more than three hundred sixty-five (365) days after the mailing of notice, the late surrender fee is eighty percent (80%) of the face value of the bond.

(5) If the bail agent or surety does not comply with the terms of subsection (b) within three hundred sixty-five (365) days of the mailing of notice required under subsection (a)(2), the late surrender fee is eighty percent (80%) of the face value of the bond. All late surrender fees are due as of the date of compliance with subsection (b) or three hundred sixty-five (365) days after the mailing of notice required under subsection (a)(2), whichever is earlier, and shall be paid by the surety when due. If the surety fails to pay, then the late surrender fees shall be paid by the commissioner as provided in subsection (f).

(d) If the bail agent or surety does not comply with the terms of subsection (b) within three hundred sixty-five (365) days of the mailing of notice required by subsection (a)(2), the court shall declare forfeited an amount equal to twenty percent (20%) of the face value of the bond. The court shall immediately enter judgment on the forfeiture, without pleadings and without change of judge or change of venue, and assess against the bail agent or surety all actual costs resulting from the defendant's failure to appear. These costs include jury fees, witness fees, and any other documented costs incurred by the court.

(e) Proceedings relative to the bond, forfeiture of a bond, judgment on the forfeiture, execution of judgment, or stay of proceedings shall be in the court in which the bond was posted. Costs and late surrender fee assessed against a bail agent or surety under subsection (c) shall be satisfied without further order of the court as provided in subsection (f). The court may waive the late surrender fee or extend the period for payment beyond the statutorily permitted period, or both, if the following conditions are met:

(1) A written request is filed with the court and the prosecutor.

(2) The surety or bail agent provides evidence satisfactory to the court that diligent efforts were made to locate the defendant.

(f) In the case of an insurer, if the fees, costs, or judgment is not paid, then the clerk shall mail the notice to the commissioner. The commissioner shall:

(1) within ten (10) days of receipt of the notice forward a copy by certified mail to the insurer;

(2) forty-five (45) days after receipt of the notice from the clerk, if the commissioner has not been notified by the clerk that the fees or judgment or both have been paid, pay the late surrender fee assessment, costs, and any judgment of forfeiture ordered by the court from funds the insurer has on deposit with the department of insurance;

(3) upon paying the assessment, costs, and judgment, if any, from funds on deposit, immediately revoke the license of the insurer, if the satisfaction causes the deposit remaining to be less than the amount required by this article; and

(4) within ten (10) days after revoking a license, notify the insurer and the insurer's agents and the clerk of each county in Indiana of the revocation and the insurer shall be prohibited from conducting a bail bond business in Indiana until the deposit has been replenished.

(g) The notice mailed by the clerk to the commissioner pursuant to the terms of subsection (f) shall include:

(1) the date on which the defendant originally failed to appear as provided in the bond;

(2) the date of compliance with subsection (b), if compliance was achieved within three hundred sixty-five (365) days after the mailing of the notice required by subsection (a)(2);

(3) the amount of the bond;

(4) the dollar amount of the late surrender fee due

(5) the amount of costs resulting from the defendant's failure to appear; and

(6) if applicable, the dollar amount of the judgment of forfeiture entered by the court.

(h) Any surety on a bond may appeal to the court of appeals as in other civil cases without moving for a new trial, and on the appeal the evidence, if any, shall be reviewed.

(i) Fifty percent (50%) of the late surrender fees collected under this chapter shall be deposited in the police pension trust fund established under IC 36-8-10-12 and the remaining fifty percent (50%) shall be deposited in the county extradition fund established under IC 35-33-14.

As added by P.L.261-1985, SEC.1. Amended by P.L.355-1989(ss), SEC.4; P.L.224-1993, SEC.9; P.L.348-1995, SEC.3; P.L.105-2010, SEC.8.

IC 27-10-2-13

Liability of bail agent or surety

Sec. 13. All liability of the bail agent or surety may be enforced on motion without necessity of an independent action if conformance with sections 1 through 12 of this chapter is shown.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.10.

IC 27-10-2-14

Collateral securities; receipts; records

Sec. 14. (a) When a bail agent or insurer accepts collateral, the bail agent or insurer shall give a written receipt for the collateral. The receipt shall give in detail a full description of the collateral received and the terms of redemption. The collateral shall be considered to have been taken in a fiduciary capacity. The bail agent or insurer shall keep copies of all receipts at the bail agent's or insurer's place of business to be available to the commissioner for the commissioner's review.

(b) A bail agent or an insurer shall maintain in the bail agent's or insurer's office records of bail bonds executed or countersigned by the bail agent or insurer for at least one (1) year after the liability of the surety has been terminated. Salient details of the bonds shall be a part of the records required by this subsection.

(c) Before August 16 of each year, a bail agent or a firm or an agency a bail agent is employed by, associated with, or a member of shall file with the commissioner a sworn statement on a form furnished by the commissioner. The statement must include:

(1) a list of every outstanding or unpaid late surrender fee and judgment;

(2) the name of the court in which each outstanding or unpaid late surrender fee and judgment is recorded; and

(3) all other information determined by the commissioner to be pertinent.

(d) The commissioner may:

(1) deny;

(2) suspend;

(3) revoke; or

(4) refuse to renew;

a license issued under this article for failure of the licensee to comply with subsection (c).

(e) The commissioner may impose a civil penalty of not more than ten thousand dollars ($10,000) against:

(1) an insurer;

(2) a bail agent; or

(3) a firm or an agency;

for failure to comply with subsection (c).

(f) A civil penalty imposed under subsection (e) may be enforced in the same manner as a civil judgment.

As added by P.L.261-1985, SEC.1. Amended by P.L.355-1989(ss), SEC.5; P.L.224-1993, SEC.11.

IC 27-10-2-15
Bail instead of money or bonds; refund

Sec. 15. If money or bonds have been deposited, bail by sureties may be substituted therefor at any time before a breach of the undertaking, and the official taking the new bail shall make an order that the money or bonds be refunded to the person depositing the same and they shall be refunded accordingly and the original undertakings shall be cancelled.
As added by P.L.261-1985, SEC.1.

IC 27-10-2-16
Deposits instead of bond

Sec. 16. (a) When the defendant has been admitted to bail, the defendant, or another in the defendant's behalf, may deposit with an official authorized to take bail, a sum of money, or nonregistered bonds of the United States, of the state, or of any county, city, or town within the state, equal in market value to the amount of such bail, together with the defendant's personal undertaking, and an undertaking of such other person, if the money or bonds are deposited by another. Upon delivery to the official in whose custody the defendant is of a certificate of such deposit, the defendant shall be discharged from custody in the cause.

(b) When bail other than a deposit of money or bonds has been given, the defendant or the surety may, at any time before a breach of the undertaking, deposit the sum mentioned in the undertaking, and upon such deposit being made, accompanied by a new undertaking, the original undertaking shall be cancelled.
As added by P.L.261-1985, SEC.1.

IC 27-10-3
Chapter 3. Licensure and Registration

IC 27-10-3-1
Bail agent and recovery agent; licenses; qualifications

Sec. 1. (a) A person may not act in the capacity of a bail agent or recovery agent or perform any of the functions, duties, or powers prescribed for bail agents or recovery agents under this article unless the person is qualified and licensed as provided in this article. However, none of the terms of this section shall prohibit any individual or individuals from:

(1) pledging real or other property as security for a bail bond in judicial proceedings and where the individual does not receive, or is not promised, money or other things of value; or

(2) executing any bail bond for an insurer, pursuant to a bail bond service agreement entered into between the insurer and any automobile club or association, financing institution, insurance company, or other organization or association, and on behalf of a person required to furnish bail in connection with any violation of law arising out of the use of a motor vehicle.

(b) A license:

(1) may not be issued except in compliance with this article; and

(2) may only be issued to an individual.

However, upon an affirmative showing to the commissioner in writing by an individual that the individual is an all lines fire and casualty insurance producer, a surety bail agent license shall be issued to the individual without further qualification or fee to represent an insurer the individual is licensed to represent. The individual shall be subject to and governed by laws and rules relating to bail agents when engaged in the activities of a bail agent.

(c) A firm, a partnership, an association, a limited liability company, or a corporation may not be licensed.

(d) The applicant must apply in writing, on forms prepared and supplied by the commissioner, and the commissioner may propound any reasonable interrogatories to an applicant for a license under this article or on any renewal of a license relating to the applicant's qualifications, residence, prospective place of business, and any other matters which, in the opinion of the commissioner, are deemed necessary or expedient in order to protect the public and ascertain the qualifications of the applicant. The commissioner may also conduct any reasonable inquiry or investigation the commissioner sees fit, relative to the determination of the applicant's fitness to be licensed or to continue to be licensed.

(e) The failure of the applicant to secure approval of the commissioner shall not preclude the applicant from applying as many times as the applicant desires. However, an applicant's application may not be considered by the commissioner within one (1) year subsequent to the date upon which the commissioner denied the applicant's last application.

As added by P.L.261-1985, SEC.1. Amended by P.L.8-1993, SEC.434; P.L.224-1993, SEC.12; P.L.1-1994, SEC.140; P.L.178-2003, SEC.81.

IC 27-10-3-2
Expiration of licenses; renewal; reinstatement

Sec. 2. (a) All licenses issued expire two (2) years after the end of the month of issue based on the schedule set forth in subsection (b) unless the licensee is on probation or the licensee's license was revoked or suspended before that date by the commissioner or upon notice served upon the commissioner that the insurer or employer of any recovery agent has canceled the licensee's authority to act for the insurer or employer.

(b) A license must be renewed under this article according to the following schedule:

(1) A licensee whose last name commences with the letters A through H shall renew a license before the last day of August every other calendar year beginning August 1993.

(2) A licensee whose last name commences with the letters I through R shall renew a license before the last day of September every other calendar year beginning September 1993.

(3) A licensee whose last name commences with the letters S through Z shall renew a license before the last day of October every other calendar year beginning October 1993.

(c) A licensee who is issued a new license with not more than one (1) year remaining shall pay fifty percent (50%) of the fee set forth in section 4 of this chapter.

(d) A license that has expired may be reinstated if:

(1) the licensee:

(A) applies for reinstatement not more than ninety (90) days after the expiration date;

(B) is not on probation;

(C) has not previously been denied a license;

(D) pays:

(i) a pro rata part of the license fee required under section 7 of this chapter based on the renewal schedule set forth in subsection (b); plus

(ii) to the commissioner a license reinstatement fee of one hundred dollars ($100); and

(E) meets all other requirements for licensure; and

(2) the license was not revoked or suspended at the time that the license expired.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.13; P.L.1-1994, SEC.141; P.L.102-2005, SEC.1.

IC 27-10-3-3

Applications; qualifications

Sec. 3. (a) The application for license, in addition to the matters set out in section 1 of this chapter, to serve as a bail agent must affirmatively show that:

(1) the applicant is at least eighteen (18) years of age and is of good moral character;

(2) the applicant has never been convicted of a disqualifying offense, notwithstanding IC 25-1-1.1, or:

(A) in the case of a felony conviction, at least ten (10) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later; or

(B) in the case of a misdemeanor disqualifying offense, at least five (5) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later;

(3) the applicant has knowledge or experience in the bail bond business, or has held a valid all lines fire and casualty insurance producer's license for one (1) year within the last five (5) years, or has been employed by a company engaged in writing bail bonds in which field the applicant has actively engaged for at least one (1) year of the last five (5) years; and

(4) the applicant has completed at least twelve (12) hours of instruction in courses approved by the commissioner under section 7.1 of this chapter that pertain to the duties and responsibilities of a bail agent or recovery agent, including instruction in the laws that relate to the conduct of a bail agent or recovery agent.

(b) The application must affirmatively show that the applicant has been a bona fide resident of Indiana for one (1) year immediately preceding the date of application. However, the commissioner may waive this requirement.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.14; P.L.178-2003, SEC.82; P.L.102-2005, SEC.2.

IC 27-10-3-4

Examination; fees; fingerprints and photographs

Sec. 4. (a) A license fee of six hundred fifty dollars ($650) and an examination fee of one hundred dollars ($100) must be submitted to the commissioner with each application for the issuance of a bail agent's license.

(b) An applicant for a bail agent's license must also furnish with the application a complete set of the applicant's fingerprints and a recent credential-size full face photograph of the applicant. The applicant's fingerprints must be certified by an authorized law enforcement officer.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.15.

IC 27-10-3-5
Recovery agent; additional licensing requirements; fees; fingerprints and photographs

Sec. 5. In addition to the requirements prescribed in section 1 of this chapter, an applicant for a license to serve as a recovery agent must affirmatively show that:

(1) the applicant is at least eighteen (18) years of age;

(2) the applicant is a citizen of the United States and has been a bona fide resident of this state for more than six (6) months immediately preceding the date of application;

(3) the applicant has never been convicted of a disqualifying offense, notwithstanding IC 25-1-1.1, or:

(A) in the case of a felony conviction, at least ten (10) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later; or

(B) in the case of a misdemeanor disqualifying offense, at least five (5) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later; and

(4) the applicant has completed at least twelve (12) hours of instruction in courses approved by the commissioner under section 7.1 of this chapter that pertain to the duties and responsibilities of a bail agent or recovery agent, including instruction in the laws that relate to the conduct of a bail agent or recovery agent.

A license fee of three hundred dollars ($300) and an examination fee of one hundred dollars ($100) shall be submitted to the commissioner with each application, together with the applicant's fingerprints and photograph.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.16; P.L.102-2005, SEC.3.

IC 27-10-3-6
Examination; application

Sec. 6. (a) The applicant for a bail agent's or recovery agent's license shall be required to appear in person and take a written examination prepared by the commissioner testing the applicant's ability and qualifications to be a bail agent or recovery agent.

(b) An applicant is eligible for examination after the date the application is received by the commissioner, if the commissioner is satisfied as to the applicant's fitness to take the examination. Examinations shall be held at times and places designated by the commissioner, and an applicant shall be given notice of a time and place not less than fifteen (15) days prior to taking the examination.

(c) The failure of an applicant to pass an examination may not preclude the applicant from taking subsequent examinations.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.17; P.L.348-1995, SEC.4.

IC 27-10-3-7
Renewal; fees; continuing education

Sec. 7. (a) A renewal license shall be issued by the commissioner to a licensee who:

(1) has continuously maintained a license in effect;

(2) pays a renewal fee of:

(A) six hundred fifty dollars ($650) for bail agents; and

(B) three hundred dollars ($300) for recovery agents;

(3) has fulfilled the continuing education requirement as required under subsection (b);

(4) satisfactorily completes a renewal examination if required by the commissioner; and

(5) has in all other respects complied with and been subject to this article.

(b) A licensee shall complete at least six (6) hours of continuing education courses that:

(1) are approved under section 7.1 of this chapter; and

(2) apply to the licensee's particular license, including instruction in the laws that relate to the conduct of a bail agent or recovery agent;

during each license period. A continuing education course that is used to fulfill the continuing education requirements for an insurance producer license under IC 27-1-15.7 may not be used to satisfy the continuing education requirement set forth in this section.

(c) After the receipt of the licensee's application for renewal, the current license continues in effect until the renewal license is issued, suspended, or denied for cause.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.18; P.L.102-2005, SEC.4

IC 27-10-3-7.1
Continuing education course approval; fees; criteria

Sec. 7.1. (a) A provider of courses required for licensure under sections 3 and 5 of this chapter or license renewal under section 7 of this chapter:

(1) shall obtain from the commissioner approval of the courses and instructors before the courses are conducted;

(2) shall annually pay to the commissioner a reasonable fee, as determined by the commissioner; and

(3) shall comply with any other requirements established by the commissioner.

(b) A provider described in subsection (a) may charge a reasonable fee for attendance at an approved course.

(c) A fee paid under subsection (a)(2) must be:

(1) deposited in the bail bond enforcement and administration fund created under IC 27-10-5-1; and

(2) used to implement this article.

(d) The commissioner shall:

(1) establish criteria for approval or disapproval of instructors and courses required for:

(A) licensure under sections 3 and 5 of this chapter; and

(B) license renewal under section 7 of this chapter; and

(2) approve or disapprove instructors and courses specified in subdivision (1);

that pertain to the duties and responsibilities of a bail agent and recovery agent, including instruction concerning the laws that relate to the conduct of a bail agent and recovery agent.

As added by P.L.102-2005, SEC.5.

IC 27-10-3-8
Denial, suspension, or revocation of licenses; refusal to renew

Sec. 8. (a) The commissioner shall deny, suspend, revoke, or refuse to renew any license issued under this article for any of the following causes:

(1) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner.

(2) Violation of any laws of this state in the course of dealings under any license issued the licensee by the commissioner.

(3) Material misstatement, misrepresentation, or fraud in obtaining the license.

(4) Misappropriation, conversion, or unlawful withholding of money belonging to insurers or others and received in the conduct of business under any license issued to the licensee by the commissioner.

(5) Fraudulent or dishonest practices in the conduct of business under any license issued to the licensee by the commissioner.

(6) Willful failure to comply with or willful violation of any proper order or rule of the commissioner.

(7) When, in the judgment of the commissioner, the licensee has, in the conduct of affairs under the license, demonstrated:

(A) incompetency or untrustworthiness;

(B) conduct or practices rendering the licensee unfit to carry on the bail bond business or making the licensee's continuance in such business detrimental to the public interest;

(C) that the licensee is no longer in good faith carrying on the bail bond business; or

(D) that the licensee is guilty of rebating, or offering to rebate, or unlawfully dividing, or offering to divide, the licensee's commissions in the case of limited surety agents;

and for such reasons is found by the commissioner to be a source of detriment, injury, or loss to the public.

(8) The listing of the name of the applicant or licensee on the most recent tax warrant list supplied to the commissioner by the department of state revenue.

(b) The commissioner shall refuse to:

(1) issue a license; or

(2) renew a license issued;

under this chapter to a person who is the subject of an order issued by a court under IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).

(c) The commissioner may also levy a civil penalty of not more than ten thousand dollars ($10,000) for any of the causes listed in subsection (a). Any civil penalty levied under this subsection may be enforced in the same manner as a civil judgment.

(d) When a person who holds a license under this chapter enters a plea of guilty to a disqualifying offense, the commissioner, immediately upon the court's acceptance of the plea, shall revoke the person's license. The commissioner shall revoke the license of any person who is convicted of a disqualifying offense immediately upon conviction. The pending of sentencing or the pending of an appeal of a conviction of a disqualifying offense does not stay the revocation of a license under this subsection. A person convicted of a felony is not eligible to reapply for a license until ten (10) years from the date of conviction or release from imprisonment, parole, or probation, whichever is later. A person convicted of a misdemeanor disqualifying offense is not eligible to reapply for a license until five (5) years from the date of conviction or release from imprisonment, parole, or probation, whichever is later.

As added by P.L.261-1985, SEC.1. Amended by P.L.29-1987, SEC.5; P.L.185-1996, SEC.16; P.L.23-1996, SEC.28; P.L.1-1997, SEC.114.

IC 27-10-3-9

Suspension or revocation of licenses; hearings; witnesses; attorneys; penalty

Sec. 9. (a) If, after investigation, the commissioner determines that a licensed bail agent or recovery agent has been guilty of violating any of the laws of this state relating to bail bonds or has committed any disqualifying offense, the commissioner shall, upon ten (10) days notice in writing to:

(1) the bail agent or recovery agent; and

(2) the insurer represented by the bail agent if a surety bail agent;

accompanied by a copy of the charges of the unlawful conduct of the bail agent or the recovery agent, suspend the license of the bail agent or the recovery agent, unless on or before the expiration of the ten (10) days the bail agent or the recovery agent makes a written response to the commissioner concerning the charges.

(b) If, after the expiration of ten (10) days and within twenty (20) days after the expiration of the ten (10) days, the bail agent or the recovery agent fails to make a written response to the charges, the commissioner shall suspend or revoke the license of the bail agent or the recovery agent. If, however, the bail agent or the recovery agent files a written response denying the charges within the time specified, the commissioner shall call a hearing within a reasonable time for the purpose of taking testimony and evidence on any issue of facts made by the charges and answer.

(c) The commissioner shall give notice to:

(1) the bail agent or the recovery agent; and

(2) the insurer represented by the bail agent if a surety bail agent;

of the time and place of the hearing. The parties may produce witnesses and appear personally with or without representation by counsel.

(d) If, following the hearing, the commissioner determines by a preponderance of the evidence that the bail agent or the recovery agent is guilty as alleged in the charges, whether or not convicted in court, the commissioner shall publish the determination not later than thirty (30) days after the conclusion of the hearing and shall:

(1) revoke the license of the bail agent or the recovery agent; or

(2) suspend the bail agent for a definite period of time to be fixed in the order of suspension.

The commissioner may also levy a civil penalty against the bail agent or the recovery agent that is not more than ten thousand dollars ($10,000).

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.19; P.L.102-2005, SEC.6.

IC 27-10-3-10
Suspension or revocation of licenses; appeals

Sec. 10. An applicant for license as a bail agent or recovery agent whose:

(1) application has been denied; or

(2) license has been suspended, revoked, or denied renewal by the commissioner;

may appeal to the circuit court of the county from which the bail agent or recovery agent applied for the license. The appeal shall be heard de novo.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.20.

IC 27-10-3-11
Surety bail agents; terminating appointment; premiums owed; remedies

Sec. 11. (a) An insurer who appoints a surety bail agent in Indiana shall give notice of the appointment to the commissioner along with a written application for license for the bail agent. All appointments are subject to the issuance of a license to the surety bail agent.

(b) If an insurer appoints a surety bail agent under subsection (a), not later than sixty (60) days after the appointment, the appointee shall submit to the commissioner an affidavit:

(1) on a form prescribed by the commissioner;

(2) signed by the appointee; and

(3) that states:

(A) whether the appointee owes premiums to a former insurer or an agency to which the appointee reported on behalf of a former insurer;

(B) to whom the appointee owes a premium;

(C) the amount of the premium owed; and

(D) whether there is a dispute concerning the premium.

(c) An appointee shall provide a copy of an affidavit submitted under subsection (b) by certified mail to each of the appointee's former insurers or agents to which the appointee reported on behalf

of a former insurer in the six (6) years immediately preceding the appointee's appointment under subsection (a).

(d) Not more than one hundred eighty (180) days after receiving a copy of an appointee's affidavit provided under subsection (c), a former insurer or agent that has knowledge that the affidavit is untrue may file a petition with the commissioner stating that the appointee still owes a premium to the insurer or agent in violation of IC 27-10-4-7 and requesting relief. At the same time that the insurer or agent files the petition with the commissioner, the insurer or agent shall mail a copy of the petition to the appointee by certified mail. The appointee may file a response with the commissioner not later than ten (10) days after the appointee receives the petition.

(e) Upon receipt of the petition and response, if filed, under subsection (d), the commissioner may conduct an investigation and institute proceedings in accordance with section 9 of this chapter.

(f) The remedies provided in this section are not the exclusive remedies available to an insurer or agent. The election of an insurer or agent to seek a remedy under this section does not preclude the insurer or agent from seeking other remedies available at law or in equity, and is not a prerequisite for an insurer or agent to seek other remedies available at law or in equity.

(g) An insurer that terminates the appointment of a surety bail agent shall file written notice of the termination with the commissioner together with a statement that the insurer has given or mailed notice to the surety bail agent. The notice filed with the commissioner must state the reasons, if any, for the termination. Information furnished to the commissioner is confidential and may not be used as evidence in or a basis for any action against the insurer or any of the insurer's representatives.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.21; P.L.348-1995, SEC.5; P.L.102-2005, SEC.7.

IC 27-10-3-12
Deposits in accounts of insurers or agents; reports

Sec. 12. All insurers or general agents requiring bail bond agents to post deposits pursuant to their bail bond writing authority must maintain those deposits in a bank, savings association, or credit union in this state. Each insurer or general agent shall report to the commissioner the location of each agent's account at the time of the agent's license issuance or renewal. Any change in the location of an agent's account shall be reported by the insurer or general agent to the commissioner within thirty (30) days of the change of location.
As added by P.L.261-1985, SEC.1. Amended by P.L.79-1998, SEC.33.

IC 27-10-3-13
Discontinuing business; return of license

Sec. 13. A bail agent who discontinues writing bail bonds during the period for which the bail agent is licensed shall:

(1) notify the clerks of the circuit court and the sheriffs with whom the bail agent is registered; and
(2) return the bail agent's license to the commissioner for cancellation;

within thirty (30) days after the discontinuance.
As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.22.

IC 27-10-3-14
Recovery agent; use of licensed persons; list

Sec. 14. A person who is licensed as a bail agent may use as a recovery agent any person who holds a valid recovery agent's license. A bail agent must, on or before October 1 of each year, furnish to the commissioner, on a form supplied by the commissioner, a list of all recovery agents used by the bail agent during the preceding year.
As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.23.

IC 27-10-3-15
Insurers; deposits; engaging in bail bond business

Sec. 15. All insurers must deposit with the commissioner cash, United States treasury notes, or bonds in bearer form with coupons attached having a par value of at least seventy-five thousand dollars ($75,000) in order to obtain a license to engage in the bail bond business, out of which the commissioner shall satisfy judgment on all forfeitures which have not been paid. Such deposit shall be subject to all laws and rules as are deposits by domestic insurance companies.
As added by P.L.261-1985, SEC.1. Amended by P.L.255-1995, SEC.12.

IC 27-10-3-16
Repealed

(Repealed by P.L.224-1993, SEC.32.)

IC 27-10-3-17
Registration of licenses; power of attorney

Sec. 17. (a) A bail agent may not become a surety on an undertaking unless the bail agent has registered the bail agent's license in the office of the sheriff and with the clerk of the circuit court in the county in which the bail agent resides. The bail agent may then become a surety on an undertaking in any other county upon filing a copy of the bail agent's license in the office of the sheriff and with the clerk of the circuit court in the other county. A surety bail agent must also file an original qualifying power of attorney signed by the bail agent and attached to a specimen bail bond with the clerk of the circuit court and file a copy of the qualifying power of attorney with the office of the sheriff. The clerk of the circuit court and the sheriff may not permit the registration of a bail agent unless the bail agent is currently licensed by the commissioner under this article.

(b) A recovery agent may not perform the recovery agent's duties unless the recovery agent has registered the recovery agent's license within fifteen (15) days of issuance or any renewal in the office of the sheriff and with the clerk of the circuit court in the county where the recovery agent resides. The clerk of the circuit court and

the sheriff may not permit a registration unless the recovery agent is properly licensed by the commissioner under this article.
As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.24; P.L.348-1995, SEC.6.

IC 27-10-3-18
Access to jails
Sec. 18. A person who holds a valid bail agent's license issued by the insurance commissioner and registered as required in section 17 of this chapter may have equal access to the jails of this state for the purpose of making bond, subject to this article and rules adopted under this article.
As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.25.

IC 27-10-3-19
Duty of commissioner upon receipt of support order; reinstatement
Sec. 19. (a) Upon receiving an order of a court issued under IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal), the commissioner shall:
(1) suspend a license issued under this chapter to any person who is the subject of the order; and
(2) promptly mail a notice to the last known address of the person who is the subject of the order, stating the following:
(A) That the person's license is suspended beginning five (5) business days after the date the notice is mailed, and that the suspension will terminate not earlier than ten (10) business days after the commissioner receives an order allowing reinstatement from the court that issued the suspension order.
(B) That the person has the right to petition for reinstatement of a license issued under this chapter to the court that issued the order for suspension.
(b) The commissioner shall not reinstate a license suspended under subsection (a) until the commissioner receives an order allowing reinstatement from the court that issued the order for suspension.
As added by P.L.23-1996, SEC.29. Amended by P.L.1-1997, SEC.115.

IC 27-10-3-20
Notice; probationary status; appeal; reinstatement
Sec. 20. (a) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-32(i), the commissioner shall send to the person who is the subject of the order a notice that does the following:
(1) States that the person is delinquent and is subject to an order placing the person on probationary status.
(2) Explains that unless the person contacts the bureau and:
(A) pays the person's child support arrearage in full;
(B) establishes a payment plan with the bureau to pay the arrearage, which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or
(C) requests a hearing under IC 31-25-4-33;
within twenty (20) days after the date the notice is mailed, the commissioner shall place the person on probationary status with respect to any license issued to the person under this chapter.
(3) Explains that the person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.
(4) Explains that the only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake of fact.
(5) Explains the procedures to:
(A) pay the person's child support arrearage in full;
(B) establish a payment plan with the bureau to pay the arrearage, which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and
(C) request a hearing under IC 31-25-4-33.

(6) Explains that the probation will terminate ten (10) business days after the commissioner receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(b) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-34(d), the commissioner shall send to the person who is the subject of the order a notice that states the following:

(1) That a license issued to the person under this chapter has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the commissioner receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(2) That if the commissioner is advised by the bureau that the person whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;

within twenty (20) days after the date the notice is mailed, the commissioner shall suspend the person's license.

(c) If the commissioner receives a notice from the bureau (Title IV-D agency) under IC 31-25-4-32(i) that the person whose license has been placed on probationary status has failed to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;

within twenty (20) days after the notice required under subsection (b) is mailed, the commissioner shall suspend the person's license.

(d) The commissioner may not reinstate any license placed on probation or suspended under this section until the commissioner receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

As added by P.L.23-1996, SEC.30. Amended by P.L.1-1997, SEC.116; P.L.145-2006, SEC.167; P.L.103-2007, SEC.9.

IC 27-10-3-21

Rules

Sec. 21. The department may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.102-2005, SEC.8.

IC 27-10-4
Chapter 4. Prohibited Activities

IC 27-10-4-1
Financial interest in agencies; services during period of license suspension or revocation

Sec. 1. (a) No person may possess a financial interest in, be employed by, have an agency relationship with, or perform any services for a bail bond agency or insurer during the period of license suspension or revocation. No licensee under this article may accept any services from a person during the period of that person's license suspension or revocation.

(b) The commissioner shall immediately suspend under IC 27-10-3-8(a) an agent, agency, or insurer who violates this section.

(c) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

As added by P.L.261-1985, SEC.1. Amended by P.L.29-1987, SEC.6; P.L.355-1989(ss), SEC.6.

IC 27-10-4-2
Advising employment of attorney; paying fees or rebates; acting as attorney; accepting property; soliciting business

Sec. 2. (a) A bail agent or recovery agent may not do any of the following:

(1) Suggest or advise the employment of or name for employment any particular attorney to represent the bail agent's principal.

(2) Pay a fee or rebate or give any property to an attorney in bail bond matters, except in defense of any action on a bond.

(3) Pay a fee or rebate or give or promise any property to the principal or anyone in the bail agent's behalf.

(4) Participate in the capacity of an attorney at a trial or hearing of one on whose bond the bail agent is surety.

(5) Accept any property from a principal except the premium, bail bond filing fee (when applicable), and transfer fee (when applicable), except that the bail agent or surety may accept collateral security or other indemnity from the principal that must be returned upon final termination of liability on the bond. The collateral security or other indemnity required by the bail agent or surety must be reasonable in relation to the amount of the bond.

(6) Solicit business in or about any place where prisoners are confined or in or near any courtroom.

(b) A person who recklessly violates this section or who operates as a bail agent or recovery agent without a valid license commits a Class A misdemeanor.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.26.

IC 27-10-4-3
Persons excluded as bail agent

Sec. 3. (a) The following persons may not be bail agents or receive any benefits from the execution of any bail bond:

(1) Jailers.

(2) Law enforcement officers.

(3) Judges.

(4) Persons having anything to do with the control of federal, state, county, or municipal prisoners.

(b) A person who recklessly violates this section commits a Class B misdemeanor.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.27.

IC 27-10-4-4
Blank bond; signature

Sec. 4. (a) A bail agent may not:

(1) sign or countersign in blank any bond; or

(2) give a power of attorney to or otherwise authorize anyone to countersign the bail agent's name to bonds unless the person who is authorized is a licensed bail agent directly employed by the bail agent giving the power of attorney.

(b) A person who recklessly violates this section commits a Class B misdemeanor.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.28.

IC 27-10-4-5
Failure of bail agent to collect full premium

Sec. 5. A bail agent who knowingly or intentionally executes a bail bond without collecting in full a premium for the bail bond, at the premium rate as filed with and approved by the commissioner, commits a Class D felony.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.29.

IC 27-10-4-6
Payments for apprehension or surrender of defendants

Sec. 6. (a) A person may not give or receive anything of value in exchange for the apprehension or surrender of a defendant unless the payment is made:

(1) to a law enforcement agency for actual expenses incurred in the apprehension or surrender, or both, of the defendant, or other lawful fees; or

(2) to a bail agent or recovery agent properly licensed under this article.

(b) A bail agent or recovery agent who knowingly or intentionally gives or offers to give anything of value to any law enforcement officer, officer of the court, or other public servant, except as permitted by subsection (a), commits a Class D felony.

(c) A person who recklessly violates this section, except as provided in subsection (b), commits a Class B misdemeanor.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.30.

IC 27-10-4-7
Surety bail agent; payment of premium owed

Sec. 7. (a) Notwithstanding any other law, not later than thirty (30) days after the termination of a surety bail agent's appointment, the surety bail agent shall pay to the former insurer or agent of the insurer to whom the surety bail agent reported on behalf of the former insurer any premium owed.

(b) The commissioner may enforce this section in accordance with IC 27-10-3-9.

As added by P.L.102-2005, SEC.9.

IC 27-10-5
Chapter 5. Enforcement and Administration

IC 27-10-5-1
Bail bond enforcement and administration fund; creation; deposit and use of funds

Sec. 1. (a) The bail bond enforcement and administration fund is created. All fees and penalties collected by the commissioner under this article shall be paid into the fund to be utilized for the enforcement and administration of this article. The fund shall be administered by the commissioner.

(b) Any balance remaining in the fund at the end of a state fiscal year does not revert to the state general fund. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.
As added by P.L.261-1985, SEC.1. Amended by P.L.102-2005, SEC.10.

IC 27-10-5-2
Bail bond enforcement and administration fund; use of money

Sec. 2. The money in the fund created by this chapter shall be used for the following purposes and no other:

(1) The employment of a qualified investigator and investigation staff.
(2) The expense of examination.
(3) Licensing.
(4) Forms.
(5) Other related expenses necessitated by this article.

As added by P.L.261-1985, SEC.1.

IC 27-10-5-3
Investigator; qualifications; staff; duties

Sec. 3. (a) The commissioner shall appoint a qualified investigator who shall serve at the pleasure of the commissioner. The investigator shall be of good moral character, have had at least five (5) years of experience as an insurance or private investigator or equivalent experience as a law enforcement or judicial officer, and be thoroughly familiar and conversant with Indiana criminal law, including the court procedure and structure.

(b) The investigator, with the approval of the commissioner, may select such staff as is necessary to enable the investigator to properly perform the investigator's duties. The primary duty of the investigator and the investigator's staff is to administer this article and to investigate all violations of this article and to report and recommend to the commissioner all findings made on the investigation.
As added by P.L.261-1985, SEC.1.

IC 33-37-6
Chapter 6. Credit Card Service Fee

IC 33-37-6-1
Application

Sec. 1. This chapter applies to any transaction in which:

(1) the clerk is required to collect money from a person, including:

(A) bail;

(B) a fine;

(C) a civil penalty;

(D) a court fee, court cost, or user fee imposed by the court; or

(E) a fee for the preparation, duplication, or transmission of a document; and

(2) the person pays the clerk by means of a credit card, debit card, charge card, or similar method.

As added by P.L.98-2004, SEC.16.

IC 33-37-6-2
Discharge of debt liability; vendor transaction charge or discount fee; contracts with payment processing companies authorized

Sec. 2. (a) A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit.

(b) The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. Subject to subsection (d), if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk shall collect a fee from the person using the bank card or credit card. The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

(c) Subject to subsection (d), the clerk may contract with a payment processing company, which may collect a transaction fee from the person using the bank card or credit card. The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

(d) The clerk shall collect and deposit in the appropriate fund an amount not less than the amount the clerk would collect and deposit if the clerk received payment by a means other than a bank card or credit card.

As added by P.L.98-2004, SEC.16. Amended by P.L.65-2004, SEC.16; P.L.171-2006, SEC.8.

IC 33-37-6-3
Use of credit card service fee

Sec. 3. (a) The clerk shall forward credit card service fees collected under section 2 of this chapter to the county auditor or the

city or town fiscal officer in accordance with IC 33-37-7-12(a).

(b) Funds described in subsection (a) may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

As added by P.L.98-2004, SEC.16.

IC 35-33-8
Chapter 8. Bail and Bail Procedure

IC 35-33-8-1
"Bail bond" defined

Sec. 1. As used in this chapter, "bail bond" means a bond executed by a person who has been arrested for the commission of an offense, for the purpose of ensuring:

(1) the person's appearance at the appropriate legal proceeding;

(2) another person's physical safety; or

(3) the safety of the community.

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.221-1996, SEC.1.

IC 35-33-8-1.5
"Publicly paid costs of representation" defined

Sec. 1.5. As used in this chapter, "publicly paid costs of representation" means the portion of all attorney's fees, expenses, or wages incurred by the county that are:

(1) directly attributable to the defendant's defense; and

(2) not overhead expenditures made in connection with the maintenance or operation of a governmental agency.

As added by P.L.167-1987, SEC.8.

IC 35-33-8-2
Murder; other offenses

Sec. 2. (a) Murder is not bailable when the proof is evident or the presumption strong. In all other cases, offenses are bailable.

(b) A person charged with murder has the burden of proof that he should be admitted to bail.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-8-3
Repealed

(Repealed by P.L.1-1990, SEC.341.)

IC 35-33-8-3.1
Repealed

(Repealed by P.L.107-1998, SEC.6.)

IC 35-33-8-3.2
Conditions to assure appearance; remittance of deposit; collection of fees

Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:

(A) execute a bail bond with sufficient solvent sureties;

(B) deposit cash or securities in an amount equal to the bail;

(C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;

(D) post a real estate bond; or

(E) perform any combination of the requirements described in clauses (A) through (D).

If the court requires the defendant to deposit cash or cash and another form of security as bail, the court may require the defendant and each person who makes the deposit on behalf of the defendant to execute an

agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted. The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute:

(A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; and

(B) an agreement that allows the court to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars ($50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision fines, costs, fees, and restitution as ordered by the court, publicly paid costs of representation that shall be disposed of in accordance with subsection (b), and the fee required by subsection (d). In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution. The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Except as provided in section 3.6 of this chapter, require the defendant to refrain from any direct or indirect contact with an individual and, if the defendant has been charged with an offense under IC 35-46-3, any animal belonging to the individual, including if the defendant has not been released from lawful detention.

(5) Place the defendant under the reasonable supervision of a probation officer, pretrial services agency, or other appropriate public official. If the court places the defendant under the supervision of a probation officer or pretrial services agency, the court shall determine whether the defendant must pay the pretrial services fee under section 3.3 of this chapter.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Require a defendant charged with an offense under IC 35-46-3 to refrain from owning, harboring, or training an animal.

(9) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

(1) collect a fee of five dollars ($5) from each bond or deposit required under subsection (a)(1); and

(2) retain a fee of five dollars ($5) from each deposit under subsection (a)(2).

The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the public employees' retirement fund for deposit in the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff
shall remit the bail to the clerk of the court by the following business day and remit monthly the five dollar ($5) special death benefit fee to the county auditor.

(f) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

As added by P.L.107-1998, SEC.2. Amended by P.L.1-2001, SEC.36; P.L.1-2003, SEC.91; P.L.98-2004, SEC.140; P.L.10-2005, SEC.4; P.L.1-2006, SEC.528; P.L.97-2006, SEC.1; P.L.173-2006, SEC.42; P.L.1-2007, SEC.226; P.L.104-2008, SEC.6; P.L.111-2009, SEC.7; P.L.94-2010, SEC.9.

IC 35-33-8-3.3

Pretrial services fee

Sec. 3.3. (a) This section does not apply to a defendant charged in a city or town court.

(b) If a defendant who has a prior unrelated conviction for any offense is charged with a new offense and placed under the supervision of a probation officer or pretrial services agency, the court may order the defendant to pay the pretrial services fee prescribed under subsection (e) if:

(1) the defendant has the financial ability to pay the fee; and

(2) the court finds by clear and convincing evidence that supervision by a probation officer or pretrial services agency is necessary to ensure the:

(A) defendant's appearance in court; or

(B) physical safety of the community or of another person.

(c) If a clerk of a court collects a pretrial services fee, the clerk may retain not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee. The clerk shall deposit amounts retained under this subsection in the clerk's record perpetuation fund established under IC 33-37-5-2.

(d) If a clerk of a court collects a pretrial services fee from a defendant, upon request of the county auditor, the clerk shall transfer not more than three percent (3%) of the fee to the county auditor for deposit in the county general fund.

(e) The court may order a defendant who is supervised by a probation officer or pretrial services agency and charged with an offense to pay:

(1) an initial pretrial services fee of at least twenty-five dollars ($25) and not more than one hundred dollars ($100);

(2) a monthly pretrial services fee of at least fifteen dollars ($15) and not more than thirty dollars ($30) for each month the defendant remains on bail and under the supervision of a probation officer or pretrial services agency; and

(3) an administrative fee of one hundred dollars ($100);

to the probation department, pretrial services agency, or clerk of the
court if the defendant meets the conditions set forth in subsection (b).

(f) The probation department, pretrial services agency, or clerk of the court shall collect the administrative fee under subsection (e)(3) before collecting any other fee under subsection (e). Except for the money described in subsections (c) and (d), all money collected by the probation department, pretrial services agency, or clerk of the court under this section shall be transferred to the county treasurer, who shall deposit fifty percent (50%) of the money into the county supplemental adult probation services fund and fifty percent (50%) of the money into the county supplemental public defender services fund (IC 33-40-3-1). The fiscal body of the county shall appropriate money from the county supplemental adult probation services fund:

(1) to the county, superior, or circuit court of the county that provides probation services or pretrial services to adults to supplement adult probation services or pretrial services; and

(2) to supplement the salary of:

(A) an employee of a pretrial services agency; or

(B) a probation officer in accordance with the schedule adopted by the county fiscal body under IC 36-2-16.5.

(g) The county supplemental adult probation services fund may be used only to supplement adult probation services or pretrial services and to supplement salaries for probation officers or employees of a pretrial services agency. A supplemental probation services fund may not be used to replace other probation services or pretrial services funding. Any money remaining in the fund at the end of a fiscal year does not revert to any other fund but continues in the county supplemental adult probation services fund.

(h) A defendant who is charged with more than one (1) offense and who is supervised by the probation department or pretrial services agency as a condition of bail may not be required to pay more than:

(1) one (1) initial pretrial services fee; and

(2) one (1) monthly pretrial services fee per month.

(i) A probation department or pretrial services agency may petition a court to:

(1) impose a pretrial services fee on a defendant; or

(2) increase a defendant's pretrial services fee;

if the financial ability of the defendant to pay a pretrial services fee changes while the defendant is on bail and supervised by a probation officer or pretrial services agency.

(j) An order to pay a pretrial services fee under this section:

(1) is a judgment lien that, upon the defendant's conviction:

(A) attaches to the property of the defendant;

(B) may be perfected;

(C) may be enforced to satisfy any payment that is delinquent under this section; and

(D) expires;

in the same manner as a judgment lien created in a civil proceeding;

(2) is not discharged by the disposition of charges against the defendant or by the completion of a sentence, if any, imposed on the defendant;

(3) is not discharged by the liquidation of a defendant's estate by a receiver under IC 32-30-5; and

(4) is immediately terminated if a defendant is acquitted or if charges against the defendant are dropped.

(k) If a court orders a defendant to pay a pretrial services fee, the court may, upon the defendant's conviction, enforce the order by garnishing the wages, salary, and other income earned by the defendant.

(l) If a defendant is delinquent in paying the defendant's pretrial services fee and has never been issued a driver's license or permit, upon the defendant's conviction, the court may order the bureau of motor vehicles to not issue a driver's license or permit to the defendant until the defendant has paid the defendant's delinquent pretrial services fee. If a defendant is delinquent in paying the defendant's pretrial services fee and the defendant's driver's license or permit has been suspended or revoked, the court may order the bureau of motor vehicles to not reinstate the defendant's driver's license or permit until the defendant has paid the defendant's delinquent pretrial services fee.

(m) In addition to other methods of payment allowed by law, a probation department or pretrial services agency may accept payment of a pretrial services fee by credit card (as defined in IC 14-11-1-7(a)). The liability for payment is not discharged until the probation department or pretrial services agency receives payment or credit from the institution responsible for making the payment or credit.

(n) The probation department or pretrial services agency may contract with a bank or credit card vendor for acceptance of a bank or credit card. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or pretrial services agency, or charged directly to the account of the probation department or pretrial services agency, the probation department or pretrial services agency may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the fee or fees the defendant may be required to pay under subsection (e).

o) The probation department or pretrial services agency shall forward a credit card service fee collected under subsection (n) to the county treasurer in accordance with subsection (f). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.
As added by P.L.173-2006, SEC.43.

IC 35-33-8-3.5
Bail procedures for a sexually violent predator defendant

Sec. 3.5. (a) This section applies only to a sexually violent predator defendant.

(b) As used in this section, "sexually violent predator defendant" means a person who:

(1) is a sexually violent predator under IC 35-38-1-7.5; and

(2) is arrested for or charged with the commission of an offense that would classify the person as a sex or violent offender (as defined in IC 11-8-8-5).

(c) A court may not admit a:

(1) sexually violent predator defendant;

(2) person charged with child molesting (IC 35-42-4-3); or

(3) person charged with child solicitation (IC 35-42-4-6);

to bail until the court has conducted a bail hearing in open court. Except as provided in section 6 of this chapter, the court shall conduct a bail hearing not later than forty-eight (48) hours after the person has been arrested, unless exigent circumstances prevent holding the hearing within forty-eight (48) hours.

(d) At the conclusion of the hearing described in subsection (c), the court shall consider whether the factors described in IC 35-33-8-4 warrant the imposition of a bail amount that exceeds court or county guidelines, if applicable.
As added by P.L.74-2008, SEC.1.

IC 35-33-8-3.6
Automatic no contact order for certain defendants placed on bail; time limits; modification

Sec. 3.6. (a) This section applies only to a defendant who is charged with committing a violent crime (as defined in IC 5-2-6.1-8) that results in bodily injury to a person.

(b) If a court releases a defendant described in subsection (a) to bail without holding a bail hearing in open court, the court shall include as a condition of bail the requirement that the defendant refrain from any direct or indirect contact with the victim:

(1) for ten (10) days after release; or

(2) until the initial hearing;

whichever occurs first.

(c) At the initial hearing, the court may reinstate or modify the condition that the defendant refrain from direct or indirect contact with the victim.
As added by P.L.94-2010, SEC.10.

IC 35-33-8-4
Amount of bail; order; indorsement; facts taken into account

Sec. 4. (a) The court shall order the amount in which a person charged by an indictment or information is to be held to bail, and the clerk shall enter the order on the order book and indorse the amount on each warrant when issued. If no order fixing the amount of bail has been made, the sheriff shall present the warrant to the judge of an appropriate court of criminal jurisdiction, and the judge shall indorse on the warrant the amount of bail.

(b) Bail may not be set higher than that amount reasonably required to assure the defendant's appearance in court or to assure the physical safety of another person or the community if the court finds by clear and convincing evidence that the defendant poses a risk to the physical safety of another person or the community. In setting and accepting an amount of bail, the judicial officer shall take into account all facts relevant to the risk of nonappearance, including:

(1) the length and character of the defendant's residence in the community;
(2) the defendant's employment status and history and his ability to give bail;
(3) the defendant's family ties and relationships;
(4) the defendant's character, reputation, habits, and mental condition;
(5) the defendant's criminal or juvenile record, insofar as it demonstrates instability and a disdain for the court's authority to bring him to trial;
(6) the defendant's previous record in not responding to court appearances when required or with respect to flight to avoid criminal prosecution;
(7) the nature and gravity of the offense and the potential penalty faced, insofar as these factors are relevant to the risk of nonappearance;
(8) the source of funds or property to be used to post bail or to pay a premium, insofar as it affects the risk of nonappearance; and
(9) any other factors, including any evidence of instability and a disdain for authority, which might indicate that the defendant might not recognize and adhere to the authority of the court to bring him to trial.
As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.221-1996, SEC.3.

IC 35-33-8-5
Alteration or revocation of bail
Sec. 5. (a) Upon a showing of good cause, the state or the defendant may be granted an alteration or revocation of bail by application to the court before which the proceeding is pending. In reviewing a motion for alteration or revocation of bail, credible hearsay evidence is admissible to establish good cause.
(b) When the state presents additional:
(1) evidence relevant to a high risk of nonappearance, based on the factors set forth in section 4(b) of this chapter; or
(2) clear and convincing evidence:
(A) of the factors described in IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B); or
(B) that the defendant otherwise poses a risk to the physical safety of another person or the community; the court may increase bail.
(c) When the defendant presents additional evidence of substantial mitigating factors, based on the factors set forth in section 4(b) of this chapter, which reasonably suggests that the defendant recognizes the court's authority to bring the defendant to trial, the court may
reduce bail. However, the court may not reduce bail if the court finds by clear and convincing evidence that the factors described in IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B) exist or that the defendant otherwise poses a risk to the physical safety of another person or the community.
(d) The court may revoke bail or an order for release on personal recognizance upon clear and convincing proof by the state that:
(1) while admitted to bail the defendant:
(A) or the defendant's agent threatened or intimidated a victim, prospective witnesses, or jurors concerning the pending criminal proceeding or any other matter;
(B) or the defendant's agent attempted to conceal or destroy evidence relating to the pending criminal proceeding;
(C) violated any condition of the defendant's current release order;
(D) failed to appear before the court as ordered at any critical stage of the proceedings; or
(E) committed a felony or a Class A misdemeanor that demonstrates instability and a disdain for the court's authority to bring the defendant to trial;
(2) the factors described in IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B) exist or that the defendant otherwise poses a risk to the physical safety of another person or the community; or
(3) a combination of the factors described in subdivisions (1) and (2) exists.
As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.36-1990, SEC.6; P.L.107-1998, SEC.3; P.L.98-2004, SEC.141.

IC 35-33-8-6

Probationers and parolees; detention; notice to appropriate authority; revocation proceedings

Sec. 6. The court may detain, for a maximum period of fifteen (15) calendar days, a person charged with any offense who comes before it for a bail determination, if the person is on probation or parole. During the fifteen (15) day period, the prosecuting attorney shall notify the appropriate parole or probation authority. If that authority fails to initiate probation or parole revocation proceedings during the fifteen (15) day period, the person shall be treated in accordance with the other sections of this chapter.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-8-6.5

Eight hour holding period before person arrested for domestic violence may be released on bail

Sec. 6.5. The court may not release a person arrested for a crime of domestic violence (as described in IC 35-41-1-6.3) on bail until at least eight (8) hours from the time of the person's arrest.

As added by P.L.44-2008, SEC.2.

IC 35-33-8-7

Failure to appear; pending civil action or unsatisfied judgment; same transaction or occurrence; forfeiture; order for payment; judgment; transfer of funds

Sec. 7. (a) If a defendant:

(1) was admitted to bail under section 3.2(a)(2) of this chapter; and

(2) has failed to appear before the court as ordered;

the court shall, except as provided in subsection (b) or section 8(b) of this chapter, declare the bond forfeited not earlier than one hundred twenty (120) days after the defendant's failure to appear and issue a warrant for the defendant's arrest.

(b) In a criminal case, if the court having jurisdiction over the criminal case receives written notice of a pending civil action or unsatisfied judgment against the criminal defendant arising out of the same transaction or occurrence forming the basis of the criminal case, funds deposited with the clerk of the court under section 3.2(a)(2) of this chapter may not be declared forfeited by the court, and the court shall order the deposited funds to be held by the clerk. If there is an entry of final judgment in favor of the plaintiff in the civil action, and if the deposit and the bond are subject to forfeiture, the criminal court shall order payment of all or any part of the deposit to the plaintiff in the action, as is necessary to satisfy the judgment. The court shall then order the remainder of the deposit, if any, and the bond forfeited.

(c) Any proceedings concerning the bond, or its forfeiture, judgment, or execution of judgment, shall be held in the court that admitted the defendant to bail.

(d) After a bond has been forfeited under subsection (a) or (b), the clerk shall mail notice of forfeiture to the defendant. In addition, unless the court finds that there was justification for the defendant's failure to appear, the court shall immediately enter judgment, without pleadings and without change of judge or change of venue, against the defendant for the amount of the bail bond, and the clerk shall record the judgment.

(e) If a bond is forfeited and the court has entered a judgment under subsection (d), the clerk shall transfer to the state common school fund:

(1) any amount remaining on deposit with the court (less the fees retained by the clerk); and

(2) any amount collected in satisfaction of the judgment.

(f) The clerk shall return a deposit, less the administrative fee, made under section 3.2(a)(2) of this chapter to the defendant, if the defendant appeared at trial and the other critical stages of the legal proceedings.

As added by Acts 1982, P.L.204, SEC.17. Amended by P.L.167-1987, SEC.10; P.L.44-1988, SEC.3; P.L.1-1990, SEC.343; P.L.36-1990, SEC.7; P.L.107-1998, SEC.4; P.L.105-2010, SEC.9.

IC 35-33-8-8
Failure to appear; pending civil action or unsatisfied judgment; same transaction or occurrence; forfeiture; order for payment

Sec. 8. (a) If a defendant was admitted to bail under section 3.2(a) of this chapter and the defendant has knowingly and intentionally failed to appear before the court as ordered, the court:

(1) shall issue a warrant for the defendant's arrest;

(2) may not release the defendant on personal recognizance; and

(3) may not set bail for the rearrest of the defendant on the warrant at an amount that is less than the greater of:

(A) the amount of the original bail; or

(B) two thousand five hundred dollars ($2,500);

in the form of a bond issued by an entity defined in IC 27-10-1-7 or the full amount of the bond in cash.

(b) In a criminal case, if the court having jurisdiction over the criminal case receives written notice of a pending civil action or unsatisfied judgment against the criminal defendant arising out of the same transaction or occurrence forming the basis of the criminal case, funds deposited with the clerk of the court under section 3.2(a)(2) of this chapter may not be declared forfeited by the court, and the court shall order the deposited funds to be held by the clerk. If there is an entry of final judgment in favor of the plaintiff in the civil action, and if the deposit is subject to forfeiture, the criminal court shall order payment of all or any part of the deposit to the plaintiff in the action, as is necessary to satisfy the judgment. The court shall then order the remainder of the deposit, if any, forfeited.

As added by P.L.36-1990, SEC.8. Amended by P.L.224-1993, SEC.31; P.L.107-1998, SEC.5.

IC 35-33-8-9
Repealed

(Repealed by P.L.65-2004, SEC.23.)

IC 35-33-8-10
Credit card service fee

Sec. 10. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit card shall pay the credit card service fee under IC 33-37-6.

As added by P.L.65-2004, SEC.11.

IC 35-33-8-11
Authority to require that persons charged with a crime of domestic violence to wear a GPS device; liability for costs

Sec. 11. (a) A court may require a person who has been charged with a crime of domestic violence (as described in IC 35-41-1-6.3) to wear a GPS tracking device as a condition of bail.

(b) A court may order a person who is required to wear a GPS tracking device under subsection (a) to pay any costs associated with the GPS tracking device.

As added by P.L.94-2010, SEC.11.

IC 35-33-8.5
Chapter 8.5. Bail and Recognizance

IC 35-33-8.5-1
Sheriff; approval of bail

Sec. 1. When any person is committed for want of bail, and the amount of bail is specified in the warrant of commitment, the sheriff may take the recognizance and approve the bail.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-2
Recognizances; recording

Sec. 2. Every recognizance taken by any peace officer must be delivered forthwith to the clerk of the court to which the defendant is recognized. The clerk must thereupon record the recognizance, and, from the time of filing, it shall have the same effect as if taken in open court.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-3
Recognizances; sureties; affidavit of qualifications

Sec. 3. A court or officer required to take or accept any bail or recognizance or to approve the sureties offered on any bond or recognizance in any case of a criminal nature, may require any person offered as surety thereon to make affidavit of the person's qualifications or to be examined orally under oath touching the same, and such court or officer may take such affidavit or administer such oath.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-4
Sureties; qualifications; judgments and decrees; appeals

Sec. 4. (a) One (1) surety on every such recognizance must be a resident freeholder of the county in which the prosecution is pending, and the surety or sureties must be worth at least double the sum to be secured and must have property in this state liable to execution equal to the sum to be secured, and when two (2) or more sureties are offered to the same recognizance, they must have in the aggregate the qualifications prescribed in this section. Whenever by the laws of this state a surety company is authorized to become surety on recognizance bonds, such surety company may be accepted as sufficient surety on any such bond.

(b) The recognizance shall be in form substantially as provided in IC 27-10-2-10, conditioned for judgment on ten (10) days notice to the surety. No pleadings shall be necessary and no change of judge or change of venue shall be granted. The obligor may except to the ruling of the court and appeal to the court of appeals as in civil cases without moving for a new trial.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-5
Pending proceedings; renewals

Sec. 5. The recognizance as provided for in IC 27-10-2-10 shall be continuing, and the defendant shall not be required to renew it during pendency of the proceedings, unless ordered to do so by the court for cause shown. But, at each term of the court, after such recognizance is taken, the court shall inquire into the sufficiency of the sureties.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-6
Murder; admittance to bail

Sec. 6. When any person is indicted for murder, the court in which the indictment is pending, upon motion, upon application by writ of habeas corpus, may admit the defendant to bail when it appears upon examination that the defendant is entitled to be let to bail.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-7
Surrender of principal

Sec. 7. When a surety on any recognizance desires to surrender the surety's principal, the surety may procure a copy of the recognizance from the clerk, by virtue of which such surety, or any person authorized by the surety, may take the principal in any county within the state.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-8
Amount of bond; payment into court

Sec. 8. At any time after forfeiture and at any time before judgment upon the recognizance, the surety may pay the amount named in the bond to the clerk of the court, who shall give the surety a receipt therefor.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-9
Liens; real estate; release

Sec. 9. All recognizances, taken to secure the appearance of a defendant in the circuit court to answer a criminal charge, shall be immediately recorded by the clerk of said court in the order book and entered in the judgment docket of said court, and from the date of such recording and entry such recognizance shall be a lien upon all the real estate in such county owned by the several obligors. If the real estate owned by any one or more of said obligors be situated in any county or counties of the state of Indiana, other than that in which such prosecution is pending, it shall then be the duty of the clerk of the court where said action is pending, upon order of such court and as such court may direct, to immediately transmit to the clerk of the circuit court of the county, or counties, where said real estate is situated, a certified copy of said recognizance, and the clerk or clerks, to whom such copies are so certified, shall immediately, upon receipt thereof, record the same and enter them upon the judgment docket of the circuit court of such county, in the same manner as required of the clerk of the court wherein said cause is pending, and the same shall become a lien upon all the real estate in such county, or counties, owned by any one or more of said obligors, in the same manner and to the same extent as if said lands were situated in the county where said cause is pending. The clerk to whom such document is transmitted shall be entitled to charge and collect the sum of one dollar ($1) for the services herein required of the clerk, which sum shall be paid by the defendant or the defendant's obligors, and which shall accompany said certified copy. Upon the final determination of said cause and the full and complete compliance with all of the requirements and conditions of said recognizance upon the part of the defendant, the court wherein said cause was determined shall order the release of all liens created by said recognizance as herein provided, and the clerk of said court shall transmit to the clerk of the circuit court of each county wherein said lien may have been recorded, as herein provided, and such order when recorded in any of said counties shall operate as a full and complete release thereof as to all lands of such obligors situated in any such county. The fee of any clerk for recording any such release shall be fifty cents ($0.50), which fee shall be paid by the obligor whose lands are thereby affected, and shall accompany the copy of such order when transmitted by the clerk of said court. Judgments, if any, rendered as in this article provided, in the event of the forfeiture of any recognizance bond

affected by this article, shall bind and be a lien upon all the real estate of the principal and sureties, within the county in which such judgment is rendered, from the date of such entry and recording of such recognizance in the clerk's office, the date of which lien shall be stated in such judgment of the court. A transcript of such judgment shall also be filed in the office of the clerk of the circuit court of each other county, if any, where such recognizance may have been recorded as herein provided, and when so recorded shall be a lien upon all the lands of any obligor therein situated, from the date of the recording of such recognizance bond, in like manner as in the county of original jurisdiction, as herein provided, and shall be without relief from valuation or appraisement laws. Should such surety be relieved from liability from such bond as by law provided, such clerk shall proceed to release from the lien provided herein all the surety's such real estate as though such case had been completed and the case finally determined.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-10
Subrogation

Sec. 10. Whenever any person has been compelled to pay to any prosecuting attorney, clerk of the court, or sheriff, under mere color of judicial proceedings in attachment or garnishment at the suit of the state, the amount of any forfeited recognizance, such person so paying shall, from the date of such payment, be subrogated as against the recognizors in such recognizance, to all the rights of the state under such recognizance, and shall have a cause of action against such recognizors for the amount so paid, as if such recognizance and all the rights of the state under the same had been assigned by the state to the person or persons so paying, at the date of such payment.
As added by P.L.5-1988, SEC.180.

IC 35-33-8.5-11
Subrogation; enforcement; costs

Sec. 11. Whenever any claim or claims to which any person is subrogated under section 10 of this chapter shall be sought to be enforced by any action or legal proceedings, the proper prosecuting attorney shall be made a party to the action or proceedings, to answer as to the fact of such payment and to protect the interests of the state in such action or proceedings: provided, that nothing in this section or section 10 of this chapter shall, in any event, create any liability or authorize judgment against the state, or render the state, or the attorney, liable for any costs (including fees) in the action or proceedings.
As added by P.L.5-1988, SEC.180. Amended by P.L.106-2010, SEC.10.

IC 35-33-8.5-12
Sheriff; process; powers and duties

Sec. 12. The sheriff must return every process issued to the sheriff with the sheriff's doings fully endorsed thereon, and every process, judgment and commitment of the circuit and criminal courts must be executed by the sheriff.
As added by P.L.5-1988, SEC.180.

IC 35-33-9
Chapter 9. Bail Upon Appeal

IC 35-33-9-1
Discretion of court; excepted felonies

Sec. 1. A person convicted of an offense who has appealed or desires to appeal the conviction may file a petition to be admitted to bail pending appeal. The person may be admitted to bail pending appeal at the discretion of the court in which the case was tried, but he may not be admitted to it if he has been convicted of a Class A felony or a felony for which the court may not suspend the sentence under IC 35-50-2-2.
As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-9-2
Petition; filing

Sec. 2. When a person has been sentenced to a term of imprisonment and has filed an appeal, that person may file a petition for bail pending appeal unless he is barred from admission to bail pending appeal by section 1 of this chapter. The petition must be filed in the court in which the case was tried, and a copy shall be sent to the prosecuting attorney of the circuit where the judgment was rendered.
As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-9-3
Bond; conditions of undertaking

Sec. 3. (a) The sureties on all appeal bonds must possess the qualifications that are required of bail in criminal cases, except the undertaking must also include the defendant's promise to:

(1) faithfully prosecute his appeal;
(2) abide by the order and judgment of the court to which the cause is appealed;
(3) surrender himself in execution of the judgment if the appeal be affirmed or dismissed; and
(4) surrender himself to the trial court if required by the judgment upon reversal.

(b) If undertaking is given before an appeal has been perfected, the undertaking must include a promise that an appeal will be perfected by the defendant.
As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-9-4
Amount; order; surrender by surety and recommitment; failure to comply

Sec. 4. (a) The court in which a petition to be admitted to bail is filed shall:

(1) fix bail in a reasonable amount, considering the nature of the offense and the penalty adjudged, as will insure the compliance by the defendant with the terms of the bond; and
(2) make an order containing the terms of bail.

If the defendant furnishes bail to the satisfaction of the court, he shall be discharged from custody until he is required to surrender himself according to the terms of the order.

(b) The sureties on the bail bond may, at any time, surrender the principal of the bond to the court and be released from liability. If the court so orders, the defendant shall immediately be committed to the institution to which he was sentenced unless the court approves a new bond.

(c) If the defendant fails to comply with the terms of the bail bond:

(1) the bond shall be forfeited in the court from which the appeal was taken;
(2) a warrant shall be immediately issued for his arrest; and
(3) upon arrest, he shall be committed to the institution to which he was originally sentenced.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-9-5
Stay of judgment; commencement of sentence upon surrender; prior time credit

Sec. 5. (a) Whenever any defendant is admitted to bail under the provisions of this chapter, the judgment of conviction shall be stayed until the appeal is disposed of. If the appeal is dismissed or the judgment affirmed, the term of imprisonment prescribed in the judgment shall commence to run from the time the defendant surrenders himself according to the terms of the bond.

(b) If the defendant is surrendered by his sureties under section 4, the judgment shall commence to run from the time of the surrender, and the defendant shall be immediately confined in the institution to which he was committed by the original sentence.

(c) If a defendant is admitted to bail under this chapter after he has commenced to serve his sentence, and his appeal is dismissed or the judgment from which the appeal was taken is affirmed, the defendant shall have credit on his term of sentence for the time he served before being admitted to bail. During the time any defendant is released from custody under this chapter, the judgment of conviction shall be stayed.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-9-6
Penalty of fine only; stay

Sec. 6. Where a penalty in a criminal case is a fine only, the defendant may have a stay of execution on appeal as provided by law.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-9-7
Repealed

(Repealed by P.L.65-2004, SEC.23.)

IC 35-33-9-8
Credit card service fee

Sec. 8. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit card shall pay the credit card service fee under IC 33-37-6.

As added by P.L.65-2004, SEC.12.

IC 35-33-14
Chapter 14. County Extradition Fund

IC 35-33-14-1
Establishment

Sec. 1. There is established in each county a county extradition fund.
As added by P.L.355-1989(ss), SEC.15.

IC 35-33-14-2
Purpose

Sec. 2. The county extradition fund is established for the purpose of providing funding to offset the costs of extraditing criminal defendants. Money in the fund may not be used for any other purpose.
As added by P.L.355-1989(ss), SEC.15.

IC 35-33-14-3
Administration

Sec. 3. The county auditor shall administer the fund.
As added by P.L.355-1989(ss), SEC.15.

IC 35-33-14-4
Reversion of fund money

Sec. 4. Money in the fund at the end of a particular calendar year does not revert to any other fund, but remains in the county extradition fund.
As added by P.L.355-1989(ss), SEC.15.

IC 35-33-14-5
Composition of fund

Sec. 5. The fund consists of the portion of late surrender fees deposited in the fund under IC 27-10-2-12(i).
As added by P.L.355-1989(ss), SEC.15.

IC 35-41-3
Chapter 3. Defenses Relating to Culpability

IC 35-41-3-1
Legal authority

Sec. 1. A person is justified in engaging in conduct otherwise prohibited if he has legal authority to do so.

As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.7.

IC 35-41-3-2
Use of force to protect person or property

Sec. 2. (a) A person is justified in using reasonable force against another person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force. However, a person:

(1) is justified in using deadly force; and

(2) does not have a duty to retreat;

if the person reasonably believes that that force is necessary to prevent serious bodily injury to the person or a third person or the commission of a forcible felony. No person in this state shall be placed in legal jeopardy of any kind whatsoever for protecting the person or a third person by reasonable means necessary.

(b) A person:

(1) is justified in using reasonable force, including deadly force, against another person; and

(2) does not have a duty to retreat;

if the person reasonably believes that the force is necessary to prevent or terminate the other person's unlawful entry of or attack on the person's dwelling, curtilage, or occupied motor vehicle.

(c) With respect to property other than a dwelling, curtilage, or an occupied motor vehicle, a person is justified in using reasonable force against another person if the person reasonably believes that the force is necessary to immediately prevent or terminate the other person's trespass on or criminal interference with property lawfully in the person's possession, lawfully in possession of a member of the person's immediate family, or belonging to a person whose property the person has authority to protect. However, a person:

(1) is justified in using deadly force; and

(2) does not have a duty to retreat;

only if that force is justified under subsection (a).

(d) A person is justified in using reasonable force, including deadly force, against another person and does not have a duty to retreat if the person reasonably believes that the force is necessary to prevent or stop the other person from hijacking, attempting to hijack, or otherwise seizing or attempting to seize unlawful control of an aircraft in flight. For purposes of this subsection, an aircraft is considered to be in flight while the aircraft is:

(1) on the ground in Indiana:

(A) after the doors of the aircraft are closed for takeoff; and

(B) until the aircraft takes off;
(2) in the airspace above Indiana; or
(3) on the ground in Indiana:
(A) after the aircraft lands; and
(B) before the doors of the aircraft are opened after landing.
(e) Notwithstanding subsections (a), (b), and (c), a person is not justified in using force if:
(1) the person is committing or is escaping after the commission of a crime;
(2) the person provokes unlawful action by another person with intent to cause bodily injury to the other person; or
(3) the person has entered into combat with another person or is the initial aggressor unless the person withdraws from the encounter and communicates to the other person the intent to do so and the other person nevertheless continues or threatens to continue unlawful action.
(f) Notwithstanding subsection (d), a person is not justified in using force if the person:
(1) is committing, or is escaping after the commission of, a crime;
(2) provokes unlawful action by another person, with intent to cause bodily injury to the other person; or
(3) continues to combat another person after the other person withdraws from the encounter and communicates the other person's intent to stop hijacking, attempting to hijack, or otherwise seizing or attempting to seize unlawful control of an aircraft in flight.
As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.8; Acts 1979, P.L.297, SEC.1; P.L.59-2002, SEC.1; P.L.189-2006, SEC.1.

IC 35-41-3-3
Use of force relating to arrest or escape
Sec. 3. (a) A person other than a law enforcement officer is justified in using reasonable force against another person to effect an arrest or prevent the other person's escape if:
(1) a felony has been committed; and
(2) there is probable cause to believe the other person committed that felony.
However, such a person is not justified in using deadly force unless that force is justified under section 2 of this chapter.
(b) A law enforcement officer is justified in using reasonable force if the officer reasonably believes that the force is necessary to effect a lawful arrest. However, an officer is justified in using deadly force only if the officer:
(1) has probable cause to believe that that deadly force is necessary:
(A) to prevent the commission of a forcible felony; or
(B) to effect an arrest of a person who the officer has probable cause to believe poses a threat of serious bodily
injury to the officer or a third person; and
(2) has given a warning, if feasible, to the person against whom the deadly force is to be used.
(c) A law enforcement officer making an arrest under an invalid warrant is justified in using force as if the warrant was valid, unless the officer knows that the warrant is invalid.

(d) A law enforcement officer who has an arrested person in custody is justified in using the same force to prevent the escape of the arrested person from custody that the officer would be justified in using if the officer was arresting that person. However, an officer is justified in using deadly force only if the officer:

(1) has probable cause to believe that deadly force is necessary to prevent the escape from custody of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person; and

(2) has given a warning, if feasible, to the person against whom the deadly force is to be used.

(e) A guard or other official in a penal facility or a law enforcement officer is justified in using reasonable force, including deadly force, if the officer has probable cause to believe that the force is necessary to prevent the escape of a person who is detained in the penal facility.

(f) Notwithstanding subsection (b), (d), or (e), a law enforcement officer who is a defendant in a criminal prosecution has the same right as a person who is not a law enforcement officer to assert self-defense under IC 35-41-3-2.

As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.9; Acts 1979, P.L.297, SEC.2; P.L.245-1993, SEC.1.

IC 35-41-3-4
Repealed

(Repealed by Acts 1977, P.L.340, SEC.148.)

IC 35-41-3-5
Intoxication

Sec. 5. It is a defense that the person who engaged in the prohibited conduct did so while he was intoxicated, only if the intoxication resulted from the introduction of a substance into his body:

(1) without his consent; or

(2) when he did not know that the substance might cause intoxication.

As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.10; Acts 1980, P.L.205, SEC.1; P.L.210-1997, SEC.4.

IC 35-41-3-6
Mental disease or defect

Sec. 6. (a) A person is not responsible for having engaged in prohibited conduct if, as a result of mental disease or defect, he was unable to appreciate the wrongfulness of the conduct at the time of the offense.

(b) As used in this section, "mental disease or defect" means a severely abnormal mental condition that grossly and demonstrably impairs a person's perception, but the term does not include an abnormality manifested only by repeated unlawful or antisocial conduct.

As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.11; P.L.184-1984, SEC.1.

IC 35-41-3-7
Mistake of fact

Sec. 7. It is a defense that the person who engaged in the prohibited conduct was reasonably mistaken about a matter of fact, if the mistake negates the culpability required for commission of the offense.

As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.12.

IC 35-41-3-8
Duress

Sec. 8. (a) It is a defense that the person who engaged in the prohibited conduct was compelled to do so by threat of imminent serious bodily injury to himself or another person. With respect to offenses other than felonies, it is a defense that the person who engaged in the prohibited conduct was compelled to do so by force or threat of force. Compulsion under this section exists only if the force, threat, or circumstances are such as would render a person of reasonable firmness incapable of resisting the pressure.

(b) This section does not apply to a person who:

(1) recklessly, knowingly, or intentionally placed himself in a situation in which it was foreseeable that he would be subjected to duress; or

(2) committed an offense against the person as defined in IC 35-42.

As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.13.

IC 35-41-3-9
Entrapment

Sec. 9. (a) It is a defense that:

(1) the prohibited conduct of the person was the product of a law enforcement officer, or his agent, using persuasion or other means likely to cause the person to engage in the conduct; and

(2) the person was not predisposed to commit the offense.

(b) Conduct merely affording a person an opportunity to commit the offense does not constitute entrapment.

As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.14.

IC 35-41-3-10
Abandonment

Sec. 10. With respect to a charge under IC 35-41-2-4, IC 35-41-5-1, or IC 35-41-5-2, it is a defense that the person who engaged in the prohibited conduct voluntarily abandoned his effort to commit the underlying crime and voluntarily prevented its commission.

As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.15.

IC 35-41-3-11

Mental disease or defect; use of justifiable reasonable force

Sec. 11. (a) As used in this section, "defendant" refers to an individual charged with any crime involving the use of force against a person.

(b) This section applies under the following circumstances when the defendant in a prosecution raises the issue that the defendant was at the time of the alleged crime suffering from the effects of battery as a result of the past course of conduct of the individual who is the victim of the alleged crime:

(1) The defendant raises the issue that the defendant was not responsible as a result of mental disease or defect under section 6 of this chapter, rendering the defendant unable to appreciate the wrongfulness of the conduct at the time of the crime.

(2) The defendant claims to have used justifiable reasonable force under section 2 of this chapter. The defendant has the burden of going forward to produce evidence from which a trier of fact could find support for the reasonableness of the defendant's belief in the imminence of the use of unlawful force or, when deadly force is employed, the imminence of serious bodily injury to the defendant or a third person or the commission of a forcible felony.

(c) If a defendant proposes to claim the use of justifiable reasonable force under subsection (b)(2), the defendant must file a written motion of that intent with the trial court not later than:

(1) twenty (20) days if the defendant is charged with a felony; or

(2) ten (10) days if the defendant is charged only with one (1) or more misdemeanors;

before the omnibus date. However, in the interest of justice and upon a showing of good cause, the court may permit the filing to be made at any time before the commencement of the trial.

(d) The introduction of any expert testimony under this section shall be in accordance with the Indiana Rules of Evidence.

As added by P.L.210-1997, SEC.5.

Rule 6.2. Bail Agents and Recovery Agents

760 IAC 1-6.2-1 Authority
Authority: IC 27-10-2-1
Affected: IC 27-10-3-21

Sec. 1. This rule is adopted and promulgated by the department under IC 27-10-2-1 and IC 27-10-3-21. *(Department of Insurance; 760 IAC 1-6.2-1; filed Jul 28, 1994, 4:00 p.m.: 17 IR 2862; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 530; filed Jun 30, 2006, 3:30 p.m.: 20060726-IR-760050133FRA)*

760 IAC 1-6.2-1.5 Definitions
Authority: IC 27-10-2-1
Affected: IC 27-10-1-4; IC 27-10-1-9; IC 27-10-3 2010 Edition

Sec. 1.5. The following definitions apply throughout this rule:
(1) "Bail agent" has the meaning set forth in IC 27-10-1-4.
(2) "Commissioner" means the commissioner of the department.
(3) "Continuing education class" means classes available to licensed bail or recovery agents on topics related to the bail industry necessary to renew a license under IC 27-10-3-7(b).
(4) "Department" means the department of insurance.
(5) "Prelicensing class" means a classroom course of study to prepare an applicant for taking the examination test as required by IC 27-10-3-3(a)(4) and IC 27-10-3-5(4).
(6) "Provider" means a person or entity that offers an approved prelicensing or continuing education class.
(7) "Qualified instructor" means a person who has obtained a high school diploma and also meets one (1) of the following criteria:
  (A) Holds a valid teaching license in the state of Indiana.
  (B) Has a minimum of ten (10) years of managerial, supervisory, or teaching experience in the bail industry.
  (C) Holds a property and casualty insurance producer license with the designation of:
    (i) CPCU;
    (ii) FLMI;
    (iii) CIC; or
    (iv) CHFC.

A qualified instructor must be compliant with all applicable state laws and 18 U.S.C. 1033 and may not have a bail agent or recovery agent license or insurance producer license that is, or has in the past been, suspended or revoked in Indiana or any other state without the express written consent of the commissioner.
(8) "Recovery agent" has the meaning set forth in IC 27-10-1-9.
(9) "Structured setting" means a class that meets at a:
  (A) set time; and
  (B) fixed location.

The term does not include on-line or self-study classes. *(Department of Insurance; 760 IAC 1-6.2-1.5; filed Jun 30, 2006, 3:30 p.m.:*
20060726-IR-760050133FRA)

760 IAC 1-6.2-2 Soliciting business; actions considered
Authority: IC 27-10-2-1
Affected: IC 27-10-3-18; IC 27-10-4-2
Sec. 2. (a) A bail agent or a recovery agent shall be deemed to be soliciting business in violation of the law if the bail agent or recovery agent, while present in any:
(1) jail;
(2) sheriff's office;
(3) constable's office;
(3) police station;
(4) courthouse; or
(5) courtroom;
without invitation, speaks with, approaches, or communicates with, in writing or otherwise, any person, with the intent to solicit bail business.
(b) This rule does not prevent a bail agent or a recovery agent from being in and around a:
(1) jail;
(2) sheriff's office;
(3) constable's office;
(4) police station;
(5) courthouse; or
(6) courtroom;
when called there by a client or for the purpose of seeing that the defendants on whom the bonds have been written are present.
(Department of Insurance; 760 IAC 1-6.2-2; filed Jul 28, 1994, 4:00 p.m.: 17 IR 2862; readopted filed Sep 14, 2001, 12:22 p.m.: 2010 Edition
Indiana Administrative Code Page 16
25 IR 530; filed Jun 30, 2006, 3:30 p.m.: 20060726-IR-760050133FRA)

760 IAC 1-6.2-3 Solicitation on bail agent's behalf by unlicensed person
Authority: IC 27-10-2-1
Affected: IC 27-10-4-2
Sec. 3. (a) Any licensed bail agent who knowingly permits any person, not licensed as a bail agent, to solicit business on the agent's behalf as prohibited by law shall be deemed to be in violation of the law.
(b) Any person, not licensed as a bail agent, who:
(1) is connected with a bail agent or a surety company; and
(2) makes unsolicited contact with a defendant before the approval or acceptance of the bond by a proper officer; shall be deemed to be soliciting bail bonds without a license. *(Department of Insurance; 760 IAC 1-6.2-3; filed Jul 28, 1994, 4:00 p.m.: 17 IR 2862; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 530; filed Jun 30, 2006, 3:30 p.m.: 20060726-IR-760050133FRA)*

760 IAC 1-6.2-4 Power of attorney
Authority: IC 27-10-2-1
Affected: IC 27-10-4-5
Sec. 4. Any licensed bail agent acting on behalf of an authorized surety company must attach to each bond a numbered, original properly executed power of attorney from the surety company in an amount of at least the penalty of the bond. *(Department of Insurance; 760 IAC 1-6.2-4; filed Jul 28, 1994, 4:00 p.m.: 17 IR 2862; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 530; filed Jun 30, 2006, 3:30 p.m.: 20060726-IR-760050133FRA)*

760 IAC 1-6.2-5 Receipts for receiving and returning collateral
Authority: IC 27-10-2-1
Affected: IC 27-10-2-14
Sec. 5. (a) When a bail agent accepts collateral, the agent shall give a written receipt. The receipt shall do the following:
(1) Identify the bond for which the collateral was received.
(2) Give a full description of the collateral.
(3) Name the individual giving the collateral.
(4) Specify the terms for redemption of the collateral.
(b) When a bail agent returns collateral, the agent shall give a written receipt. The receipt shall do the following:
(1) Identify the bond for which the collateral was received.
(2) Give a full description of the collateral returned.
(3) Include the signature of the person to whom the collateral was returned.
(Department of Insurance; 760 IAC 1-6.2-5; filed Jul 28, 1994, 4:00 p.m.: 17 IR 2862; readopted filed Sep 14, 2001, 12:22 p.m.:
25 IR 530; filed Jun 30, 2006, 3:30 p.m.: 20060726-IR-760050133FRA)

760 IAC 1-6.2-6 Manner of conducting business; capacity in which bail agent acts
Authority: IC 27-10-2-1
Affected: IC 27-10-3-8
Sec. 6. Every bail agent and recovery agent shall conduct the agent's business in such a manner that the public and those dealing with the agent shall be aware of the capacity in which the agent is acting. No bail agent or recovery agent shall misrepresent his or her authority. *(Department of Insurance; 760 IAC 1-6.2-6; filed Jul 28, 1994, 4:00 p.m.: 17 IR 2862; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 530; filed Jun 30, 2006, 3:30 p.m.: 20060726-IR-760050133FRA)*

760 IAC 1-6.2-7 Gifts to public officials or prisoners prohibited; gifts to relatives permitted
Authority: IC 27-10-2-1
Affected: IC 27-10-4-2: 2010 Edition
DEPARTMENT OF INSURANCE
Indiana Administrative Code Page 17
Sec. 7. No bail agent shall give, directly or indirectly, any gift of any kind to any of the following:
(1) A public official.
(2) An employee of any government agency.
(3) A prisoner in any jail or place of detention.
This section shall not prevent the customary giving of gifts to relatives by blood or marriage. *(Department of Insurance; 760 IAC*
1-6.2-7; filed Jul 28, 1994, 4:00 p.m.: 17 IR 2863; readopted filed Sep 14, 2001, 12:22 p.m.: 25 IR 530; filed Jun 30, 2006, 3:30
p.m.: 20060726-IR-760050133FRA)

760 IAC 1-6.2-8 Records must be kept; information required
Authority: IC 27-10-2-1
Affected: IC 27-10-2-14
Sec. 8. (a) Every bail agent shall keep complete records of all business done under authority of the:
(1) agent's license; or
(2) license of any bail agent employed by the agent. All records kept by the bail agent, including all documents and copies thereof, shall be open to inspection or examination by the commissioner or his or her representatives at all reasonable times at the principal place of business of the bail agent as designated in the bail agent's license.
(b) The records for each bail bond executed shall include, but not be limited to, the following:
(1) The original application for a bond.
(2) A copy of the power of attorney used pursuant to the application and issued bond.
(3) A dated, serially numbered receipt for premium payment evidencing the power of attorney used for the bond, signed by both of the following:
(A) The paying individual.
(B) The receiving bail agent.
(4) Collateral receipts, if any, issued for each bond.
(5) Complete accounting records reflecting all premiums received and disbursements.
(Department of Insurance; 760 IAC 1-6.2-8; filed Jul 28, 1994, 4:00 p.m.: 17 IR 2863; readopted filed Sep 14, 2001, 12:22 p.m.:
25 IR 530; filed Jun 30, 2006, 3:30 p.m.: 20060726-IR-760050133FRA)

760 IAC 1-6.2-8.5 Change of address
Authority: IC 27-10-2-1
Affected: IC 27-10-2
Sec. 8.5. A bail agent shall maintain a current address with the department. Any change of address shall be submitted to the department, in writing, within thirty (30) days. *(Department of Insurance; 760 IAC 1-6.2-8.5; filed Jun 30, 2006, 3:30 p.m.:*
20060726-IR-760050133FRA)

760 IAC 1-6.2-9 Acceptance of collateral for bail bond; collateral receipt required
Authority: IC 27-10-2-1
Affected: IC 27-10-2
Sec. 9. (a) Each bail agent who accepts collateral security for a bail bond shall maintain a copy of the bond and shall attach a copy of the receipt for the collateral received.
(b) The copy of the receipt for the collateral security is not required to be filed with the court.
(c) A bail agent may not refuse to return collateral based solely on the fact a person lost his or her receipt for the collateral.
(Department of Insurance; 760 IAC 1-6.2-9; filed Jul 28, 1994, 4:00 p.m.: 17 IR 2863; readopted filed Sep 14, 2001, 12:22 p.m.:
25 IR 530; filed Jun 30, 2006, 3:30 p.m.: 20060726-IR-760050133FRA)

760 IAC 1-6.2-10 Contract between principal and surety; terms and conditions
Authority: IC 27-1-3-7
Affected: IC 27-10-2-3; IC 27-10-4-4
Sec. 10. (a) The terms and conditions of all contracts entered into between a principal and a surety for a bail bond shall set forth the:
(1) bond number;
(2) date;
(3) amount of the premium; and
(4) name of the surety company;
on the form approved by the commissioner. A specimen form of the terms and conditions appears in subsection (b). Any other form may be used upon the approval of the commissioner that meets the minimum standards of the specimen form.
(b) The following is an example of the terms and conditions of a contract between a principal and a surety:
TERMS AND CONDITIONS
The following terms and conditions are an integral part of this application for appearance bond # _____ dated _____ for which
_____ Surety Company or its agents shall receive a premium in the amount of _____ ($_____) Dollars, and the parties agree that said appearance bond is conditioned upon full compliance by the principal with all said terms and conditions and is a part of said bond and application therefor.
1. _____ Surety Company as bail, shall have control and jurisdiction over the principal during the term for which the bond is executed and shall have the right to apprehend, arrest, and surrender the principal to the proper officials at any time as provided by law.
2. It is understood and agreed that the happening of any one of the following events shall constitute a breach of principal's obligations to _____ Surety Company hereunder, and _____ Surety Company shall have the right to forthwith apprehend, arrest, and surrender principal, and principal shall have no right to any refund of premium whatsoever. Said events which shall constitute a breach of principal's obligations hereunder are:
(a) If principal shall depart the jurisdiction of the court without the written consent of the court and _____ Surety Company or its agent.
(b) If principal shall move from one address to another within the State of Indiana without notifying _____ Surety Company or its agent in writing prior to said move.
(c) If principal shall commit any act which shall constitute reasonable evidence of principal's intention to cause a forfeiture of said bond.
(d) If principal shall make any material false statement in the application.
(e) If principal is arrested and incarcerated for any offense other than a minor traffic violation.
Signed, sealed, and delivered this _____ day of _____ 20 _____

_____
Signature of Applicant

_____
Mailing Address

_____
Telephone Number
(Department of Insurance; 760 IAC 1-6.2-10; filed Jul 28, 1994, 4:00 p.m.: 17 IR 2863; readopted filed Sep 14, 2001, 12:22 p.m.:
25 IR 530; filed Jun 30, 2006, 3:30 p.m.: 20060726-IR-760050133FRA)

760 IAC 1-6.2-11 Prelicensing and continuing education classes
Authority: IC 27-10-3-21
Affected: IC 27-10; IC 35

Sec. 11. (a) Prelicensing and continuing education classes must be filed with and approved by the commissioner. Any of the following persons or entities may submit a prelicensing or continuing education class for approval:
(1) An individual.
(2) An insurance company.
(3) An insurance or bail trade organization.
(4) An accredited college.
(5) An insurance education association.

(b) A prelicensing or continuing education class shall include instruction for bail and recovery agents in the following areas:
(1) IC 27-10.
(2) This rule.
(3) Practical application of the statutory requirements in the field of bail bonds.
(4) Other provisions of Indiana statutes that affect bail and recovery operation including, but not limited to IC 35.
(5) Ethics.
(6) Applicable federal laws.
(7) Technological and procedural resources used in bail and recovery operations.
All classes must be held in a structured setting with a qualified instructor approved by the commissioner under section 12 of this rule.

(c) The application for approval shall include the following information:
(1) An outline for the class including the time allocated to each topic.
(2) The class materials that will be used for teaching.
(3) The information that will be submitted to the attendees.
(4) The location where the class will be held.

(d) The application for approval shall be submitted to the commissioner along with a filing fee in the amount of forty dollars ($40) per class. The commissioner shall review the proposed class and approve or disapprove the class within ninety (90) days. If the commissioner fails to act, the class is deemed approved after ninety (90) days. A request for a hearing on any denial must be presented in writing to the commissioner within thirty (30) days after the denial is issued. A class approval is valid for one (1) year. Thereafter, the program or class must be resubmitted for review.

(e) The provider shall issue a certificate of compliance, on the form provided in section 14 of this rule, to each attendee at the end of the class. The certificate of completion shall certify that the applicant:
(1) has satisfactorily completed the class; and
(2) was present in a structured setting with an approved instructor for the requisite time period.
The provider of the class shall take attendance, signed by the attendee, at each class. The provider shall retain attendance reports for four (4) years.

(f) The commissioner may, after notice and an opportunity for a hearing, do the following:
(1) Withhold, withdraw, suspend, or revoke the approval of a prelicensing or continuing education class if the commissioner finds any of the following:

(A) The provider or an instructor has made a material misrepresentation on any of the following:
(i) The application for approval.
(ii) A certificate of completion.
(iii) Attendance records.
(B) The provider fails to timely provide certificates of completion.
(C) The provider or an instructor does not display competence in the area of teaching, bail issues, or recovery issues.
(D) The instructor substantially deviates from the approved class materials.
(2) Assess a fine or suspend or revoke a bail or recovery agent license if the commissioner finds that the bail or recovery agent has made a material alteration to a certificate of completion.
(g) The commissioner shall maintain a current list of approved bail agent prelicensing and continuing education providers.
(h) A course *[sic., that]* has been approved by the Professional Bail Agents of the United States shall be approved by the department.
(i) A program that provides a bail agent professional designation may be approved by the department as continuing education.
(Department of Insurance; 760 IAC 1-6.2-11; filed Jun 30, 2006, 3:30 p.m.: 20060726-IR-760050133FRA)

760 IAC 1-6.2-12 Approval of instructor
Authority: IC 27-10-3-21
Affected: IC 27-10; IC 35: 2010 Edition
Sec. 12. (a) An instructor must be a qualified instructor and approved by the commissioner to teach a prelicensing or
continuing education class. A qualified instructor that has been approved by the commissioner may teach any bail or recovery agent
class that has been approved by the commissioner.
(b) A qualified instructor may become approved by submitting an application on a form prescribed by the department.
(c) The application for approval shall be accompanied by an application fee of twenty dollars ($20).
(d) Approval of an instructor is valid for two (2) years.
(e) The commissioner may, after notice and an opportunity for a hearing, withhold, withdraw, suspend, or revoke the approval
of an instructor if the commissioner finds any of the following:
(1) The instructor has made a material misrepresentation on any of the following:
(A) The application submitted to the commissioner.
(B) A certificate of completion.
(C) Attendance records.
(2) The instructor displays incompetence or deviates substantially from the approved class material.
(Department of Insurance; 760 IAC 1-6.2-12; filed Jun 30, 2006, 3:30 p.m.: 20060726-IR-760050133FRA)

760 IAC 1-6.2-13 Education hour
Authority: IC 27-10-3-21
Affected: IC 27-10; IC 35
Sec. 13. (a) A prelicensing or continuing education hour is based on a one (1) hour block of time. Fifty (50) minutes of instruction in a sixty (60) minute period of time will constitute one (1) credit hour.
(b) Education credit hours will be approved in not less than one-half (½) hour increments.
(c) One (1) education credit hour is the minimum number of hours that will be approved for any prelicensing program or continuing education class. Eight (8) hours of classroom instruction per day is the maximum number of hours that will be approved for any prelicensing program or continuing education class. *(Department of Insurance; 760 IAC 1-6.2-13; filed Jun 30, 2006, 3:30 p.m.: 20060726-IR-760050133FRA)*

760 IAC 1-6.2-14 Certificate of completion
Authority: IC 27-10-3-21
Affected: IC 27-10; IC 35

Sec. 14. (a) The certificate of completion for a prelicensing class required by section 11 of this rule is as follows:

CERTIFICATE OF COMPLETION
PRELICENSING
BAIL BOND OR RECOVERY AGENT LICENSE

This Certificate must be presented at the examination site and must be accompanied by two (2) forms of identification, one of which must include a photograph. This Certificate is valid for six (6) months after the date issued.

_____ _____
Name of Student Date of Birth

_____ _____
Name of School Address of School

_____ _____
Name of Instructor City/State Zip Code
Days of Week Class Offered (circle): M T W TH F S S
Date and Time of Class: _____
Total number of hours of class instruction received by applicant at the above location and time and in the presence of the above instructor(s) _____
I hereby certify, under penalty of perjury, that the above information is true and correct to the best of my knowledge and belief and I understand that a false statement is cause for denial, suspension, or revocation of a class approval.

_____ _____
Date Instructor's Name (print)

_____
Instructor's Signature

I hereby certify, under penalty of perjury, that the above information is true and correct to the best of my knowledge and belief,
and I understand that a false statement is cause for denial, suspension, or revocation of a bail bond license.

_____ _____
Date Applicant's Name

_____
Applicant's Signature

(b) The certificate of completion for a continuing education class required by section 11 of this rule is as follows:

CERTIFICATE OF COMPLETION
CONTINUING EDUCATION
BAIL BOND OR RECOVERY AGENT LICENSE

This Certificate shall be submitted to the Department of Insurance along with the renewal application.

Name of Student	Date of Birth
Name of School	Address of School
Name of Instructor	City/State Zip Code

Days of Week Class Offered (circle): M T W TH F S S
Date and Time of Class: _____

Total number of hours of class instruction received by applicant at the above location and time and in the presence of the above instructor(s): _____ I hereby certify, under penalty of perjury, that the above information is true and correct to the best of my knowledge and belief, and I understand that a false statement is cause for denial, suspension, or revocation of a class approval.

Date	Instructor's Name (print)
	Instructor's Signature

I hereby certify, under penalty of perjury, that the above information is true and correct to the best of my knowledge and belief,
and I understand that a false statement is cause for denial, suspension, or revocation of a bail bond license.

Date	Agent's Name (print)
	Agent's Signature