January 18, 2013

SENATE BILL No. 24

DIGEST OF SB 24 (Updated January 16, 2013 3:22 pm - DI 87)

Citations Affected: IC 27-10; IC 35-33; noncode.

Synopsis: County extradition and sheriff's assistance fund. Replaces the county extradition fund of a county with the county extradition and sheriff's assistance fund. Provides that, in addition to providing funding to offset the costs of extraditing criminal defendants, a county extradition and sheriff's assistance fund may also be used to provide funding to: (1) train and equip law enforcement officers in the county; and (2) offset other costs incurred by the county sheriff's department in providing law enforcement services. Transfers any money in a county extradition fund on June 30, 2013, to the county extradition and sheriff's assistance fund on July 1, 2013.

Effective: July 1, 2013.

Glick

January 7, 2013, read first time and referred to Committee on Local Government.
January 17, 2013, reported favorably — Do Pass.

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January 18, 2013

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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SENATE BILL No. 24

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 27-10-2-12, AS AMENDED BY P.L.105-2010, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: 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

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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

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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 **and sheriff's assistance** fund established under IC 35-33-14.

SECTION 2. IC 35-33-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. There is established in each county a county extradition **and sheriff's assistance** fund.

SECTION 3. IC 35-33-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. The county extradition **and sheriff's assistance** fund is established for the ~~purpose of~~ **following purposes:**

(1) Providing funding to offset the costs of extraditing criminal defendants.

(2) Providing funding to train and equip law enforcement officers in the county.

(3) Providing funding to offset other costs incurred by the county sheriff's department in providing law enforcement services.

Money in the fund may not be used for any other purpose.

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SECTION 4. [EFFECTIVE JULY 1, 2013] **(a) Any money in the county extradition fund of a county operating under IC 35-33-14 on June 30, 2013, shall be transferred to the county extradition and sheriff's assistance fund of the county established by IC 35-33-14-1, as amended by this act, on July 1, 2013.**

(b) This SECTION expires December 31, 2013.

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COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 24, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 24 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 8, Nays 0.

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