

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 recognizers in such recognizance, to all the rights of the state under such recognizance, and shall have a cause of action against such recognizers 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.