

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23 **NEW SECTION.** **Section 1. Legislative findings -- purpose.** The purpose and legislative intent of
24 this chapter, 46-4-508, and Title 46, chapter 9, are outlined in this section.

25 (1) The legislature finds that the purpose is to protect a surety bail bond agent's liability by allowing
26 preemptive action to secure the principal when necessary. The legislature finds that a court-issued forfeiture or
27 warrant is not a prerequisite to achieve this goal.

28 (2) The legislature adopts the doctrine established in *Taylor v. Taintor*, 83 U.S. 366 (1872), which

1 stands for the following principles relating to surety bail bond insurance:

2 (a) When bail is given, the principal is regarded as delivered to the custody of the surety bail bond
3 insurance producer.

4 (b) ~~The producer's dominion is a continuance of the original imprisonment. Whenever the producer chooses, the producer may seize and deliver the principal in the producer's discharge or their surety obligations.~~

5 (c) ~~If a producer cannot deliver the principal at once, the producer may imprison the principal until this can be done.~~

6 (d)(B) A producer may exercise their rights in person or, if necessary, the producer may delegate the
7 authority to apprehend the principal to a recovery agent who is licensed in the state in accordance with
8 applicable laws and administrative rules.

9 (e) ~~The producer may pursue the principal into another state and may arrest the principal on any day of the week.~~

10 (f)(C) If necessary, the producer is permitted to enter the principal's residence, including by force, if
11 necessary, to fulfill the producer's responsibilities as a surety bail bond insurance producer.

12 (g)(D) A producer need not apply to a court for a lengthy process in order to discharge the producer's
13 duties. A producer's actions are equated to the rearrest by a sheriff of an escaping prisoner.

14 (3) The legislature finds that the purpose of this chapter is to:

15 (a) prevent defendants from evading judicial review after surrender;

16 (b) prohibit judges from arbitrarily continuing bonds without the agreement of the surety bail bond
17 agent;

18 (c) declare that judicial continuance of a bond will be considered arbitrary if it occurs without
19 providing notice to the surety as it fails to articulate the necessity for continuance in the case record; and

20 (d) ensure detention centers and law enforcement comply with lawful surrender procedures to
21 maintain public safety.

22 (4) The legislature finds that the purpose of [section 2] is to:

23 (a) recognize the surety bail bond agent's critical role in ensuring the defendant's appearance in
24 court and protecting public safety; and

1 (b) ensure the surety bail bond agent has sufficient access to judicial processes ABILITIES to fulfill
2 their obligations and address challenges in apprehending defendants.

3 (5) The legislature finds that the forfeiture provisions of this chapter are to:

4 (a) avoid disputes over notification timing by clearly defining the start and end points of the
5 forfeiture period;

6 (b) ensure courts follow transparent and fair processes in collecting forfeitures; and

7 (c) encourage the continued engagement of surety bail bond agents in apprehending defendants
8 even after forfeiture payments are made, improving overall compliance with court orders.

13 (a) is authorized under the contractual obligations of the bail agreement and applicable laws;

14 (b) does not constitute the initiation of criminal charges or enforcement of a penalty; and

15 (c) is distinct from an arrest conducted by law enforcement officers as it is limited to ensuring the

16 defendant's compliance with court orders.

17
18 **NEW SECTION. Section 2. Surety bail bond insurance producer party to action -- notice.** (1) In
19 a legal proceeding under this chapter involving a surety bail bond insurance producer, the producer is a party to
20 the action and has the right to participate in court proceedings related to the bond and the defendant's
21 obligations. This includes but is not limited to the following:

22 (a) the court providing documented notice to the producer of any changes in a defendant's court
23 dates and the reason for the changes:

24 (b) the location of the appearance;

25 (c) whether a forfeiture has been quashed or set aside;

26 (d) whether a warrant for the defendant's arrest has been quashed or withdrawn; and

27 (e) notifications sent in a format requested by the producer.

28 (2) The surety bail bond insurance producer may file motions or petitions solely related to the

1 enforcement, modification, or discharge of the surety appearance bond or to challenge a forfeiture order. A
2 court shall provide timely hearings with 24 hours' notice of changes in orders or any other decision relevant to
3 the proceeding and rulings on motions or petitions submitted by producers. A court shall maintain and produce
4 on request documentation of all documents relevant to a legal proceeding under this chapter.

5

6 **NEW SECTION. Section 3. Regulation of teletypes -- purpose -- administrative messaging --**
7 **rulemaking.** (1) The use of teletypes facilitates communication between jails and detention centers, serving as
8 a tool to assist with bonding defendants held in remote or distant detention locations when physical presence is
9 impractical. This system was established to address logistical challenges, such as large bond transmittals or
10 situations in which local surety bail bond agents are temporarily unavailable. However, teletypes may not be
11 misused as a substitute for maintaining a meaningful and sufficient local presence. This section governs the
12 permitted use of teletypes to ensure efficiency, prevent system abuse, and protect the operational integrity of
13 jails and detention centers.

14 (2) To manage communication system demands effectively, detention centers are authorized to
15 establish and implement their own reasonable limits on the number of teletypes consistent with constitutional
16 rights, operational capacity, and institutional needs.

17 (3) Surety bail bond insurance producer agencies advertising as statewide providers shall maintain
18 enough licensed surety bail bond agents geographically distributed to reasonably support their claimed service
19 area. The ratio must be at least one licensed surety bail bond agent for each geographic area as determined by
20 the attorney general to qualify as a statewide provider. The agencies shall register licensed surety bail bond
21 agents in assigned regions with the attorney general, and the attorney general shall review compliance with this
22 subsection during license applications and renewals. The license application for agencies may include a fee
23 that is commensurate with the costs of administering this section.

24 (4) Jails must log and monitor teletype request from agencies and agents and report excessive or
25 abusive teletype activity to the attorney general. Jails are authorized to limit the number of simultaneous
26 teletypes that they will process from any single agency or agent to a reasonable amount, based on the jail's
27 capacity. The jail must provide a clear escalation process for urgent cases, ensuring teletypes are not unduly
28 delayed for defendants requiring immediate release.

18 **NEW SECTION. Section 4. Statute of limitations for surety bonds.** (1) On an action relating to a
19 surety appearance bond, the period to commence an action is 2 years. The 2-year period begins on the date
20 the bond is executed.

21 (2) The surety appearance bond must be exonerated and discharged after 2 years, regardless of
22 the status of the court case, unless otherwise agreed on by the surety bail bond agent.

23 (3) Courts may require a defendant to:

24 (a) post a new bond if the case continues beyond 2 years and the court determines that continued
25 bond security is necessary; and

26 (b) ensure the terms and conditions of the new bond are consistent with the original order unless
27 circumstances require adjustment

(4) Courts must notify the surety, bail bond agent, the defendant, and other relevant parties at least

1 30 days before the expiration of the 2-year term to allow sufficient time for renewal or other arrangements. If the
2 court fails to issue a new order or notify the parties within the specified timeframe, the bond must be considered
3 exonerated by operation of law. Notification must be delivered through certified mail, electronic notification
4 systems, or other verifiable methods.

5 (5) The intent of this section is to limit the surety's liability to a reasonable timeframe, ensure
6 fairness for all parties, and provide clear timelines for action.

7

8 **Section 5.** Section 3-1-1502, MCA, is amended to read:

9 **"3-1-1502. Training and certification of judges.** (1) Except as provided in 3-1-1503, a judge
10 selected for a term of office may not assume the functions of the office unless the judge has filed with the
11 county clerk and recorder in the jurisdiction a certificate of completion of a course of education and training
12 prescribed by the commission.

13 (2) The training and education must include annual instruction on the statutory framework
14 governing surety appearance bonds, including legislative intent outlined in this chapter, proper procedures for
15 handling bond surrenders, forfeitures, and discharges, and the rights and responsibilities of licensed surety bail
16 bond agents in managing principals. Courts shall receive education in surety bail bond insurance producer's
17 participation in court actions as provided in [section 2]. The supreme court shall collaborate with the attorney
18 general in developing training and education as provided in 33-17-1602."

19

20 **Section 6.** Section 3-10-302, MCA, is amended to read:

21 **"3-10-302. Jurisdiction over forcible entry, unlawful detainer, rent deposit, and residential and**
22 **residential mobile home landlord-tenant disputes -- bail.** (1) The justices' courts have concurrent jurisdiction
23 with the district courts within their respective counties in actions of forcible entry, unlawful detainer, and rent
24 deposits and in actions brought under Title 70, chapters 24, 25, and 33.

25 (2) A justice of the peace shall:

26 (a) exonerate an existing bond if a defendant is released on their own recognizance for new
27 charges or warrants, whether requested by the surety or not;

28 (b) notify the surety bail bond insurance producer in writing of an exoneration within 5 business

1 days; and

2 (c) ensure compliance with 46-9-502 and 46-9-511."

3

4 **Section 7.** Section 7-32-2255, MCA, is amended to read:

5 **"7-32-2255. Inmate phone calls to attorney.** (1) As needed and subject to policies adopted by the
6 local government that operates or contracts for the lease or operation of a detention center, the detention
7 center administrator shall allow an inmate to speak on the telephone with the inmate's attorney without charge.

8 (2) Inmates must be permitted to speak on the telephone with their attorney or a licensed surety
9 bail bond insurance producer as often as reasonably necessary to prepare their legal defense, arrange for bail,
10 or address ongoing legal matters.

11 (3) Calls to attorneys and licensed surety bail bond agents must be provided without charge. The
12 term "without charge" includes all connection, usage, and administrative fees associated with the call.

13 (4) Calls to attorneys may not be recorded under any circumstances. Calls to licensed surety bail
14 bond agents may be recorded for security purposes.

15 (5) Local policies adopted by the governing authority of a detention center may not impose undue
16 restrictions on the frequency or duration of these calls or otherwise hinder an inmate's access to legal counsel
17 or bail arrangements.

18 (6) Detention center administrators shall maintain a log of attorney and surety bail bond agent calls
19 and provide a means for inmates to report a denial of access. Verified complaints of noncompliance must be
20 addressed by the local governing authority within 14 days."

22 **Section 8.** Section 46-6-508, MCA, is amended to read:

23 **"46-6-508. Arrest by surety bail bond insurance producer.** (1) A surety bail bond insurance
24 producer who has probable cause to believe that a principal insured by the surety insurer to which the producer
25 is appointed will fail to appear in court, in violation of 46-9-503(2), or has violated a condition of their release,
26 may use reasonable force to arrest and detain the principal at any time prior to the forfeiture of the bond and
27 without a court-issued forfeiture or warrant consistent with [section 1] only or as described in 46-9-510 and this
28 section. The producer shall:

(a) except under exigent circumstances, prior to and no more than 6 hours before attempting to apprehend the principal, notify the local police department or sheriff's office of the intent to apprehend the principal in that jurisdiction by telephoning nonemergency dispatch and provide:

(i) the name and producer license number of the individual who will be effecting the arrest; and

(ii) the name and approximate location of the principal; and

(b) immediately after the arrest of the principal, notify the local police department or sheriff's office

by telephoning nonemergency dispatch and provide:

(i) the name and producer license number of the individual who effected the arrest;

(ii) the name of the principal arrested and the description of the location of the arrest; and

(iii) if no notification was given under subsection (1)(a), a detailed explanation of the reasons a

notification could not be given under subsection (1)(a).

(2) A surety bail bond insurance producer:

(a) _____ has the authority to apprehend, detain, and surrender principals without additional judicial
process.

(b) may pursue principals across state lines if the producer complies with state laws in the jurisdiction where the apprehension occurs; and

(c) has contractual and statutory rights of sureties to act independently to mitigate liability on a

(3) A court shall provide remedies for surety bail bond insurance producers when the producer is restricted or prohibited from apprehending and returning defendants to Montana or there are other legal or practical barriers that impede timely apprehension.

(2)(4)(3) As used in this section, the following definitions apply:

(a) "Arrest", as it pertains to a surety bail bond insurance producer, means the physical seizure or
of the principal for the purpose of returning the principal to the jurisdiction of the court. This type of

(i) is authorized under the contractual obligations of the bail agreement and applicable laws;

(ii) does not constitute the initiation of criminal charges or enforcement of a penalty; and

(iii) is distinct from an arrest conducted by law enforcement officers, as it is limited to ensuring the

1 defendant's compliance with court orders.

2 (a)(b) "Principal" means a defendant or a witness who has been admitted to bail and who is obligated
3 to appear in court as required on penalty of forfeiting bail under a commercial bail bond.

4 (b)(c) "Surety bail bond insurance producer" or "producer" means an insurance producer who is
5 licensed to sell, solicit, or negotiate commercial bail bonds pursuant to Title 33, chapters 17 and 26."

6

7 **Section 9.** Section 46-9-105, MCA, is amended to read:

8 **"46-9-105. General authority for release and detention.** (1) An arrested person must be released or
9 detained pending judicial proceedings pursuant to Title 46, chapter 9.

10 (2) A jail or detention center may not charge any fees relating to the processing or payment of bail
11 bonds, including credit card fees, which the jail or detention center must pay for.

12 (2)(3) If a person is released, that person shall appear to answer the charge for the alleged
13 commission of the offense, as ordered, in the court having jurisdiction."

14

15 **Section 10.** Section 46-9-301, MCA, is amended to read:

16 **"46-9-301. Determining amount of bail.** (1) In all cases in which bail is determined to be necessary,
17 bail must be reasonable in amount and the amount must be:

18 (1)(a) sufficient to ensure the presence of the defendant in a pending criminal proceeding;

19 (2)(b) sufficient to ensure compliance with the conditions set forth in the bail;

20 (3)(c) sufficient to protect any person from bodily injury;

21 (4)(d) not oppressive;

22 (5)(e) commensurate with the nature of the offense charged;

23 (6)(f) considerate of the financial ability of the accused;

24 (7)(g) considerate of the defendant's prior record;

25 (8)(h) considerate of the length of time the defendant has resided in the community and of the
26 defendant's ties to the community;

27 (9)(i) considerate of the defendant's family relationships and ties;

28 (10)(j) considerate of the defendant's mental health status and of the defendant's participation in a

1 mental health treatment program;

2 (11)(k) considerate of the defendant's employment status; and

3 (12)(l) sufficient to include the charge imposed in 46-18-236.

4 (2) Courts shall prescribe a single, uniform bond amount, regardless of the bond type. Courts are
5 prohibited from setting disparate financial obligations based on bond type. Cash and surety bonds must be
6 treated equally, with no incentives or terms favoring one bond type over another.

7 (3)(2) For cases involving multiple charges within a single case, the court shall issue a single
8 aggregate bond that reflects the combined risk and conditions of release. Stacking separate bonds for
9 individual charges is prohibited.

10 (4)(3) Courts and jails may not act as de facto sureties. Courts and jails are prohibited from accepting
11 or processing cash bonds under terms that do not apply equally to surety bonds. In the event of a defendant's
12 failure to appear, the same financial consequences must apply equally to cash bonds and surety bonds.

13 (5)(4) The purpose of this section is to maintain the impartiality of the judiciary and protect the
14 integrity of the bail system. Courts shall avoid actions that may create the appearance of impropriety or
15 favoritism. Equal treatment of all bond types is essential to uphold public confidence in the bail process."

16

17 **Section 11.** Section 46-9-311, MCA, is amended to read:

18 **"46-9-311. Reduction, increase, revocation, or substitution of bail.** (1) UponOn application by the
19 state or the defendant, the court before which the proceeding is pending may increase or reduce the amount of
20 bail, substitute one bail for another, alter the conditions of the bail, or revoke bail.

21 (2) Reasonable notice of suchthe application must be given to the opposing parties, thesurety
22 bail bond insurance producer, or theirthe opposing parties' attorneys by the applicant.

23 (3) If the court increases the bail amount and a new bond is required:

24 (a) the surety bail bond insurance producer responsible for the existing bond may rewrite thebond
25 to reflect the increased amount;

26 (b) on receipt and acceptance of the rewritten bond, the court shall immediately exonerate and
27 discharge the original bond, releasing the producer from all liability associated with the prior bond; and

28 (c) multiple surety appearance bonds may not be stacked for the same defendant in any single

1 case. When a new bond is issued, the prior bond must be exonerated and discharged;

2 (4) On a defendant's surrender, the following procedures apply:

3 (a) the defendant must be brought before a judge for a redetermination of bond prior to release;

4 (b) the judge may only continue the existing bond if the surety bail bond insurance producer

5 provides documented agreement to continue the bond liability; and

6 (c) if the producer declines to continue liability, the judge shall either:

7 (i) modify the bond terms to address the reasons for surrender or forfeiture; or

8 (ii) set a new bond with terms consistent with the original conditions unless circumstances warrant

9 adjustment.

10 (5) If a defendant is rearrested on the same charges after bond exoneration:

11 (a) a new bond must be executed for the defendant's release;

12 (b) previously exonerated bonds may not be reactivated under any circumstances;

13 (c) the new bond must be issued in accordance with the terms and conditions set by the court for

14 the rearrested defendant.

15 (6) For a hearing under this section, the surety bail bond insurance producer must have the right

16 to:

17 (a) appear and participate in the redetermination hearing;

18 (b) request full exoneration of liability or continuation of the bond; and

19 (c) decline further liability for the bond without judicial imposition of the existing bond terms.

20 (7) For the purposes of this section, the following definitions apply:

21 (a) "Revocation" means the termination of liability on a surety appearance bond initiated by the

22 surety bail bond insurance producer. Revocation requires proper notification as outlined in 46-9-503 and may

23 include the issuance of a new bond agreement if necessary.

24 (b) "Surrender" means the act of a surety bail bond insurance producer delivering a defendant into

25 the custody of a law enforcement officer, detention center, or court. A surrender may involve simultaneous

26 revocation of the surety appearance bond to protect the surety's liability."

27

28 **Section 12.** Section 46-9-502, MCA, is amended to read:

1 **"46-9-502. Conditions performed -- bail discharged.** (1) When the conditions of bail have been
2 performed and the accused has been discharged from the accused's obligations in the cause, the court shall
3 return to the accused or the accused's sureties the deposit of any cash, stocks, or bonds. If the bail is real
4 estate, the court shall notify in writing the county clerk and recorder and the lien of the bail bond on the real
5 estate must be discharged. If the bail is a written undertaking or a commercial surety bond, it must be
6 discharged and the sureties exonerated.

7 (2) On adjudication of the case and sentencing of the defendant, a surety appearance bond must
8 be discharged and may not be extended or converted into a performance bond to ensure compliance with fines,
9 fees, or other conditions of sentencing.

10 (3) Courts are prohibited from scheduling ongoing status hearings for the purpose of monitoring
11 the payment of fines and fees as a condition of maintaining a secured surety appearance bond. If a defendant
12 fails to comply with the terms of sentencing, the court may:

13 (a) hold a contempt hearing, which allows for the issuance of a warrant; and
14 (b) set a new bond on the warrant to ensure the defendant's appearance at the contempt hearing.
15 (4)(3) When a defendant appears for a contempt hearing and satisfies the appearance and the
16 hearing is adjudicated, a surety bond issued for the defendant must be discharged and may not be used to
17 ensure continued compliance with fines, fees, or other sentencing conditions.

18 (5)(4) The intent of this section is to maintain the distinction between surety appearance bonds and
19 performance bonds and to ensure fairness to the sureties and defendants by limiting the bond's scope to
20 securing appearances as originally intended."

22 **Section 13.** Section 46-9-503, MCA, is amended to read:

23 **"46-9-503. Violation of release condition -- forfeiture.** (1) If a defendant violates a condition of
24 release, including failure to appear, the prosecutor may make a written motion to the court for revocation of the
25 order of release. A judge may issue a warrant for the arrest of a defendant charged with violating a condition of
26 release. Upon arrest, the defendant must be brought before a judge in accordance with 46-7-101.

27 (2) (a) If a defendant fails to appear before a court as required and bail has been posted, the judge
28 may declare the bail forfeited. Notice of the order of forfeiture must be mailed to the defendant and the

1 defendant's sureties at their last-known address within 10 working days after the defendant fails to appear or
2 the bond becomes void and must be released and returned to the surety within 5 working days. If a court fails to
3 issue a forfeiture within 10 days of the failure to appear, the bond must be automatically exonerated and
4 discharged back to the surety bail bond agent. Failure of a court to send notice within 10 days of the failure to
5 appear renders the forfeiture invalid and the bond must be discharged.

6 (b) On issuing a forfeiture, the court shall issue NOTICE OF:

7 (i) a warrant for the arrest of the defendant; and

8 (ii) deliver a copy of the warrant along with notice of forfeiture to the agent.

9 (c) Failure of a court to comply with subsection (2)(b) invalidates the forfeiture, and the bond must
10 be discharged.

11 (d) A court shall maintain proof of compliance with the requirements of this subsection (2), which
12 must include documentation showing:

13 (i) the date of the defendant's failure to appear;

14 (ii) the date the forfeiture was issued; and

15 (iii) the date the notice of forfeiture and warrant were sent to the agent.

16 (3) A court shall notify all parties responsible for ensuring the defendant's appearance, including
17 the surety bail bond insurance producer who has the right to appear at any court hearing under [section 2].

18 (3)(4) If at any time within 90 days after the forfeiture the defendant's sureties surrender the
19 defendant pursuant to 46-9-510 or appear and satisfactorily excuse the defendant's failure to appear, the judge
20 shall direct the forfeiture to be discharged without penalty. This 90-day period begins on the date the forfeiture
21 order is signed by the judge. Courts shall send notification of forfeiture to the surety bail bond agent within 10
22 calendar days of the failure to appear. If the notification is issued within the timeframe, the 90-day clock begins
23 regardless of when the notice is received by the surety, provided the court can document compliance with the
24 10-day notification rule. If at any time within 90 days after the forfeiture the defendant appears and satisfactorily
25 excuses the defendant's failure to appear, the judge shall direct the forfeiture to be discharged upon terms as
26 may be just. A court must notify the agent within 10 days after the 90-day forfeiture period expires if the
27 forfeiture remains unpaid. Notification under this section must:

28 (a) be served in the same manner as a notice in a civil action;

1 (b) include details of the amount owed, the court order enforcing the forfeiture, and instructions for
2 payment or further legal proceedings; and

3 (c) clearly state that the forfeiture action is now considered a civil action between the court, the
4 surety bail bond insurance producer, and the surety, with the producer recognized as a direct party to the case.

5 (5) In addition to the timeframes in subsection (4), the surety bail bond insurance producer may
6 recover forfeiture payments after payment. After payment of the forfeiture, the producer retains arrest authority
7 over the defendant for up to 1 year. If the defendant is apprehended and returned to the court's custody within
8 this period, the producer may:

9 (a) file a motion with the court to request a refund of the paid forfeiture amount; and

10 (b) provide documentation providing the surrender and custody of the defendant to support the
11 refund request.

12 (4)(6) The surety bail bond must be exonerated upon on proof of the defendant's death or
13 incarceration or subjection to court-ordered treatment in a foreign jurisdiction for a period exceeding the time
14 limits under subsection (3) (4).

15 (7) If the defendant is incarcerated in a jurisdiction outside the state or in a tribal jail, the following
16 procedures apply:

17 (a) the surety bail bond insurance producer may petition the court for:

18 (i) issuance of a warrant that is enforceable in the jurisdiction where the defendant is located; or
19 (ii) discharge of the forfeiture until the defendant completes their obligations in the incarcerating
20 jurisdiction; AND

21 (b) lower jurisdictional courts must have explicit authority to facilitate the issuance of nationwide
22 warrants in cases involving surety appearance bonds, ensuring recovery of the defendant in jurisdictions
23 requiring warrants for apprehension; and

24 (c)(B) the cost of returning the defendant to the court's jurisdiction as a result of an out-of-state
25 warrant or recovery efforts initiated by the producer in a foreign or out-of-state jurisdiction falls solely on the
26 producer and not the court.

27 (5)(8) A surety bail bond is an appearance bond only. It cannot be held or forfeited for fines,
28 restitution, or violations of release conditions other than failure to appear. The original bond is in effect pursuant

1 to 46-9-121 and is due and payable only if the surety fails, after 90 days from forfeiture, to surrender the
2 defendant or if the defendant fails to appear on the defendant's own within the same time period."

3

4 **Section 14.** Section 46-9-505, MCA, is amended to read:

5 **"46-9-505. Issuance of arrest warrant -- redetermining bail -- definition.** (1) Upon On failure to
6 comply with any condition of a bail or recognizance, the court having jurisdiction at the time of the failure may,
7 in addition to any other action provided by law, issue a warrant for the arrest of the person. The court shall
8 comply with the notice requirements of 46-9-503.

9 (2) On verified application by the prosecutor setting forth facts or circumstances constituting a
10 breach or threatened breach of any of the conditions of the bail or a threat or an attempt to influence the
11 pending proceeding, the court may issue a warrant for the arrest of the defendant.

12 (3) ~~If the defendant has been released under the supervision of a pretrial services agency, referred~~
13 ~~to in 46-9-108 (1)(f), an officer of that agency may arrest the defendant without a warrant or may deputize any~~
14 ~~other officer with power of arrest to arrest the defendant by giving the officer oral authorization and within 12~~
15 ~~hours delivering to the place of detention a verified written statement setting forth that the defendant has, in the~~
16 ~~judgment of the officer, violated the conditions of the defendant's release. An oral authorization delivered with~~
17 ~~the defendant by the arresting officer to the official in charge of a county detention center or other place of~~
18 ~~detention is a sufficient warrant for detention of the defendant if the pretrial officer delivers a verified written~~
19 ~~statement within 12 hours of the defendant's arrest.~~

20 (3) (a) If the defendant has been released under the supervision of a pretrial services agency, the
21 pretrial services agency is a supervisory entity and shall comply with the following:

22 (i) a pretrial services agency is a nonsworn government agency or civilian contractor and does not
23 have the authority to arrest a defendant without a warrant; and

24 (ii) if a violation of conditions is suspected, the pretrial services agency shall:

25 (A) apply to the court for a warrant, supported by verified facts or circumstances; and

26 (B) request a sworn law enforcement officer to serve the warrant on their behalf.

27 (b) The pretrial services agency may not deputize law enforcement officers or rely on oral
28 authorization for arrests or detentions.

1 (4) Upon On the arrest, the defendant must be brought before the court without unnecessary delay
2 and the court shall conduct a hearing and determine bail in accordance with 46-9-311.

3 (5) As used in this section, "pretrial services agency" means a government agency or a private
4 entity under contract with a local government whose employees have the minimum training required in 46-23-
5 1003 and that is designated by a district court, justice's court, municipal court, or city court to provide services
6 pending a trial.

7 (5) As used in this section, the term "pretrial services agency" means a government agency or a
8 private entity under contract with a local government that is designated by a district court, justice's court,
9 municipal court, or city court to provide supervisory services pending a trial. A pretrial services agency:

10 (a) is limited to monitoring compliance with conditions of release and reporting violations to the
11 court;

12 (b) does not have the authority to arrest a defendant or deputize law enforcement officers for
13 enforcement purposes;

14 (c) shall comply with the requirement to apply for a warrant through proper judicial procedures and
15 request that a sworn law enforcement officer serve the warrant on its behalf; and

16 (d) shall ensure all personnel meet the minimum training requirements outlined in 46-23-1003."

18 **Section 15.** Section 46-9-510, MCA, is amended to read:

19 **"46-9-510. Surrender of defendant.** (1) At any time before the forfeiture of bail or within 90 days after
20 forfeiture:

21 (a) the defendant may surrender to the court or any peace officer of this state; or

22 (b) a surety bail bond insurance producer licensed to sell, solicit, or negotiate commercial bail

23 bonds pursuant to Title 33, chapter 17, may arrest the defendant pursuant to 46-6-508 and surrender the
24 defendant to the court, any peace officer, or any detention center facility of this state. Any arrest or surrender
25 pursuant to this subsection (1) must be reported to the commissioner of insurance on a form and in a manner to
26 be determined by the commissioner.

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3 (2) On surrender of the defendant, the following procedures apply.

4 (a) The peace officer or detention center facility shall detain the defendant in custody as on

5 commitment and file a certificate acknowledging the surrender. This acknowledgment must:

6 (i) include confirmation of custody acceptance;

7 (ii) be provided to the surety bail bond insurance producer within 24 hours; and

8 (iii) be filed with the court of jurisdiction within 24 hours to inform the court that the defendant is in
custody.

9 (b) All law enforcement officers and detention centers within the state shall accept custody of a

10 defendant surrendered by a licensed producer, provided the surrender complies with legal requirements.

11 (c) The court, on receiving confirmation of the defendant's custody, shall order the bail exonerated
immediately.

12 (3) If a defendant is apprehended by a surety bail bond insurance producer within 1 year after
forfeiture and returned to the court's jurisdiction, the surety may:

13 (a) file a motion with the court to request a refund of the forfeited bond amount; and

14 (b) provide documentation proving the apprehension and surrender of the defendant to the court or
law enforcement.

15 (2) The peace officer or detention center facility shall detain the defendant in custody as upon
commitment and shall file a certificate, acknowledging the surrender, in the court having jurisdiction of the
defendant. The court shall then order the bail exonerated.

16 (4) For the purposes of this section, the term "arrest", as it pertains to actions by a surety bail bond
insurance producer, means the physical seizure or custody of the principal for the purpose of returning the
principal to the jurisdiction of the court. This type of arrest:

17 (a) is authorized under the contractual obligations of the bail agreement and applicable laws;

18 (b) does not constitute the initiation of criminal charges or enforcement of a penalty; and

19 (c) is distinct from an arrest conducted by law enforcement officers, as it is limited to ensuring the
defendant's compliance with court orders."

1

2 **NEW SECTION. Section 16. Out-of-jurisdiction warrants -- prohibition on own recognizance**3 **release.** (1) Justices of the peace or judicial officers outside the jurisdiction where a warrant was issued are
4 prohibited from granting an own recognizance or release for a defendant arrested on that warrant.5 (2) Defendants arrested on an out-of-jurisdiction warrant shall remain in custody or post bond as
6 specified in the warrant until the jurisdictional court is notified and involved.7 (3) A defendant arrested on an out-of-jurisdiction warrant must be brought before a justice of the
8 peace or a court in the county of arrest without unnecessary delay.

9 (a) At the hearing, the court or justice of the peace must:

10 (i) inform the defendant of the charges and conditions outlined in the warrant;

11 (ii) confirm the identity of the defendant as the individual named in the warrant; and

12 (iii) notify the defendant of their right to post bond as specified in the warrant or await transfer to
13 the jurisdictional court.14 (b) This notification process does not grant the justice of the peace or court in the arresting county
15 the authority to alter or override the conditions of release set by the issuing jurisdiction.16 (4) A defendant arrested in a separate jurisdiction may post the bond amount specified in the
17 warrant without requiring an additional hearing. The arresting jurisdiction shall:

18 (a) accept the bond amount specified in the warrant; and

19 (b) notify the court of jurisdiction immediately on receipt of the bond payment and forward all
20 related documentation.21 (5) The arresting county or jurisdiction shall notify the court of jurisdiction immediately on the
22 defendant's arrest or any bond posting. The notification must include details of the defendant's arrest, charges,
23 and bond payment to ensure the jurisdictional court can confirm the conditions of the release.24 (6) Defendants who do not post bond must be held by the arresting county until the jurisdictional
25 county arranges for their transfer or provides alternative instructions. The arresting county may not release the
26 defendant without consent from the court of jurisdiction.

27 (7) Penalties apply to:

28 (a) nonjurisdictional courts or officers that improperly grant releases or fail to notify the

1 jurisdictional court of bond posting; and

2 (b) arresting counties that release defendants without following proper notification and transfer

3 procedures.

4 (8) The legislature intends that these provisions:

5 (a) preserve the authority of the issuing court in setting release conditions;

6 (b) ensure consistency and prevent conflicting judicial decisions from undermining warrant

7 enforcement; and

8 (c) protect public safety by maintaining proper communication and custody protocols.

9 (9) The department of justice shall provide training for justices of the peace, law enforcement, and

10 detention center personnel on:

11 (a) handling out-of-jurisdiction warrants;

12 (b) accepting bond payments for warrants issued by another jurisdiction; and

13 (c) proper procedures for notifying and transferring cases to the jurisdictional court.

14 (10) The court of jurisdiction may:

15 (a) invalidate any improperly granted releases or bond conditions imposed by nonjurisdictional

16 courts; and

17 (b) require the rearrest or transfer of a defendant if necessary to enforce the original warrant terms.

18

NEW SECTION. Section 17. Automatic bond discharge -- exoneration for defendants released

to own recognizance. (1) An existing bond for a defendant in the same jurisdiction must be automatically

discharged and exonerated if:

(a) the defendant is arrested on new charges or a separate warrant unrelated to the charges

covered by the existing bond; and

(b) the court orders the defendant's release on their own recognizance or for the new charges or

warrant.

(2) Courts may not:

(a) hold a surety bail bond agent liable for a secured bond when the defendant is considered

appropriate for release on their own recognizance; or

1 (b) use an existing bond to justify liability for unrelated charges while simultaneously granting own-
2 recognition release on new charges.

3 (3) The legislature intends for these provisions to:

4 (a) prevent inequities in which courts grant own-recognition releases for some charges but retain
5 secured bond liability for unrelated charges; and

6 (b) align the court's determination of the defendant's risk with the financial liability of the surety bail
7 bond agent.

8 (4) Courts shall:

9 (a) exonerate any existing bond for a defendant in the same jurisdiction when an own-
10 recognizance release is granted, whether explicitly requested by the surety or not; and

11 (b) provide written notice to the surety bail bond agent confirming the exoneration of the surety.

12 liability.

13 (5) A surety bail bond agent may agree to continue liability on an existing bond if they explicitly
14 consent to do so. Courts shall notify the agent before continuing any bond under these circumstances.

15 (6) A surety bail bond agent may petition the court for exoneration of a bond if the court fails to
16 discharge the bond as required under these provisions. Agents may file complaints with the judicial standards
17 commission or seek judicial review in cases of noncompliance.

18 (7) Judges and court staff shall receive training on:

19 (a) the financial and procedural implications of holding surety bail bond agents liable for
20 defendants who are considered appropriate for release on their own recognizance; and

21 (b) compliance with automatic exoneration requirements.

23 **NEW SECTION. Section 18. Judicial interference with bail bond acceptance prohibited.** (1) A
24 judge may not require a licensed surety bail bond agent to appear in court after a bond has been executed and
25 the defendant has been lawfully released. A judge may not order the rearrest of a defendant solely for the
26 purpose of reviewing or reevaluating a bond that has already been accepted and executed in compliance with
27 the law.

28 (2) When a bond has been lawfully issued and the defendant released, a judge may not:

3 (b) alter the contractual obligations between the surety bail bond agent and the defendant,
4 including earned premium or liability terms.

7 (a) the defendant has failed to appear or violated the terms of the bond; or
8 (b) new criminal charges have been filed against the defendant.

9 (4) The bond agreement between the surety bail bond agent and the defendant is a private

10 contract governed by state law. Judges may not interfere with its terms. Defendants are not entitled to refunds
11 of bond premiums when the bond is executed and the defendant is released, regardless of subsequent judicial
12 actions.

13 (5) The legislature intends for these provisions to:

14 (a) protect the integrity of the bail process and prevent unnecessary judicial interference; and
15 (b) ensure that judges respect the legal and financial obligations of licensed surety bail bond
16 agents and defendants.

17 (6) Surety bail bond agents may file complaints with the state's judicial oversight body against
18 judges who violate these provisions. Agents may seek legal recourse for damages if a judge unlawfully alters or
19 nullifies a bond agreement or interferes with earned premiums or liability.

20 (7) Judges and court personnel shall receive training on:

21 (a) the limits of judicial authority regarding bail bonds; and

22 (b) the rights and obligations of surety bail bond agents under Montana law.

23

24 **NEW SECTION. Section 19. Surety bail bond insurance producer access to court records.** (1)
25 To facilitate the effective monitoring of defendants and ensure compliance with court orders, a surety bail bond
26 insurance producer licensed pursuant to Title 33, chapter 17, may apply for access to court records across
27 jurisdictions within the state. On approval, the producer must be granted the same access to court records as
28 clerks or title companies, consistent with applicable state rules and statutes.

1 (2) — Surety bail bond insurance producers seeking access shall:

2 (a) — submit a single application to the office of the clerk of the supreme court, specifying whether
3 access is requested for statewide courts or limited to local jurisdictions; and

4 (b) — comply with all reasonable security measures and protocols established by the clerk of the
5 supreme court to protect sensitive or confidential information.

6 (3) — The clerk of the supreme court shall develop rules for processing and approving applications
7 for court access, ensuring:

8 (a) — consistency with state and federal privacy laws;

9 (b) — expedited processing for surety bail bond insurance producers operating on a statewide basis;

10 and

11 (c) — that approved producers may access records electronically or through other efficient means as
12 determined by the court.

13 (4) — Surety bail bond insurance producers with approved access shall use court records solely for
14 purposes related to the management and monitoring of defendants under their surety obligations and may not
15 disclose or use the information for an unauthorized purpose.

16 (5) — Access granted under this section must remain in effect for the duration of the surety bail bond
17 insurance producer's valid license or until otherwise revoked by the clerk of the supreme court for cause.

19 **Section 19.** Section 46-9-511, MCA, is amended to read:

20 **"46-9-511. Forfeiture procedure.** (1) When an order of forfeiture is not discharged, the court having
21 jurisdiction shall proceed with the forfeiture of bail as follows:

22 (a) if money has been posted as bail in a misdemeanor case, as defined in 45-2-101, the court
23 shall pay the money to the treasury of the city or county where the money was posted;

24 (b) if money has been posted as bail in a felony case, as defined in 45-2-101, the court shall pay
25 the money to the department of revenue for deposit in the state general fund; or

26 (c) if other property is posted as a condition of release, the property must be sold in the same
27 manner as property sold in civil actions. The proceeds of the sale must be used to satisfy all court costs and
28 prior encumbrances, if any, and from the balance, a sufficient sum to satisfy the judgment or forfeiture must be

1 paid as provided under subsection (1)(a) in a misdemeanor case or under subsection (1)(b) in a felony case.

2 (2) ~~If a surety bond has been posted as bail, execution may be issued against the sureties or the~~
3 ~~surety company in the same manner as executions in civil actions~~ If the defendant is surrendered within 1 year
4 of forfeiture, the court may discharge the execution and refund the proceeds to the surety."

5

6 **NEW SECTION. Section 20. Codification instruction.** [Sections 1 through 4 and 16 through 19 18]
7 are intended to be codified as an integral part of Title 46, chapter 9, and the provisions of Title 46, chapter 9,
8 apply to [sections 1 through 4 and 16 through 19 18].

9

10 **NEW SECTION. Section 21. Effective date.** [This act] is effective on passage and approval.

11

- END -