

Bills Related to Bail/Pretrial
2011 Legislative Session
As of July 5, 2011

Colorado S 186 (10% deposit to court as option): Failed

The bill would have permitted an alternative bond program to be established in any judicial district. A court would have been allowed to provide the option of the alternative bond program to a defendant if there is such a program in that judicial district. A law enforcement agency may work with an alternative bond program to secure the appearance of defendants in the program. A pretrial services program with an alternative bond program is permitted to expend a portion of the moneys collected for pretrial services.

Connecticut SB 28 (increased regulation of bondsmen): Enacted 6/13/11, Public Act 11-45

This bill makes changes to, and adds new, requirements for surety bail bond agents and professional bail bondsmen. (A surety bail bond agent, through a contract with an insurer, sells bail bonds in criminal cases and is regulated by the insurance commissioner. A professional bondsman puts up personal assets as bond security and is regulated by the public safety commissioner.)

The bill expands surety bail bond licensing and appointment requirements. It establishes (1) bail bond solicitation, record retention, and reporting standards and (2) premium financing, build-up funds, and collateral security requirements and restrictions. It requires agents to certify under oath to the insurance commissioner that they charged the bond premium rates the commissioner approved (i. e. , did not discount or increase them).

It authorizes the insurance commissioner to (1) suspend or revoke a bail bond agent's license, impose a penalty of up to \$ 5,000, or both for violating the bill and (2) adopt implementing regulations.

The bill also (1) restricts bail bond solicitation by professional bondsmen in the same way as for surety bail bond agents, (2) establishes collateral security requirements for them, and (3) allows the public safety commissioner to examine professional bondsmen records and adopt implementing regulations.

Florida S.B. 372 (pretrial restricted to indigent): Failed

This bill stated that it would be the policy of the state rely on the resources of the private sector to the greatest extent possible to assist in the pretrial release of defendants, and would have limited the eligibility of defendants to participate in pretrial services programs to only indigent defendants (those who qualify for a

public defender). This eligibility criteria would have superseded all local ordinances and practices, required courts to certify in writing that the defendant has been found indigent, and prohibited pretrial programs from interfering or restricting a defendant from posting a surety bond according to a predetermined schedule. Finally, instead of using pretrial service programs, court would have been permitted to establish a bond amount for an indigent defendant and counties reimburse surety agents for the premium costs of a surety bond that secures the appearance of an indigent defendant at all court proceedings.

Kentucky 11 RS BR 363 (evidence-based practices in pretrial): Enacted 3/3/11

Among other things, this bill provides guidelines for judges to impose GPS monitoring for medium-risk defendants, the establishment of funding for and mandatory use of evidence-based practices for pretrial supervision and intervention programs, including mechanisms for reviewing the effectiveness of programs and their use of evidence-based practices, and use of community-based programs for pretrial supervision.

Mississippi S 479 (s2806): Enacted 3/30/11

Allows for any bail forfeiture made by a surety, minus reasonable extradition costs, excluding attorney fees, to be “refunded” to that surety if the defendant appears in court, is arrested or surrendered to the court, or is found to be incarcerated in another jurisdiction, within 18 months of the forfeiture.

Nevada SB 217 (Citizens’ Right to Know): No further action permitted as of 4/16/11

This bill would have required pretrial release agencies in each county to prepare a register displaying information regarding cases and defendants recommended for release by the agency. Among other things, this register would have been required to be updated at least once weekly, displayed information regarding each defendant released, and be available to the public at no charge.

North Carolina SB 756: Failed

Bill introduced April 19th, SB756 would have eliminated unsecured appearance bonds as an option for pretrial release, require defendants released to pretrial services post a secured bond (or be declared indigent), and forbid any state or local funds to be used for pretrial services agencies in North Carolina.

Tennessee H.B. 178 (Citizens' Right to Know): Deferred to 2012 on 5/3/11

This bill would have created the Citizens' Right to Know Act, applicable to all Tennessee jurisdictions with populations of 300,000 or greater. Under this bill, the pretrial release programs in those jurisdictions would have had to prepare a register containing information on cases and defendants who are recommended for release by the program, including the number of defendants released, the number who fail to appear, and the number that are re-arrested. It would have also had to contain reports of the program's budget. This register would have been available to the public and updated monthly.

Virginia H.B. 2437 (regulations for bail bondsmen): Enacted 3/26/11

This bill covers a myriad of professional conduct, activities, and business practices that shall be cause for disciplinary action. One provision prohibits a bail bondsman from charging less than 10 percent, or more than 15 percent, of the amount of the bond for a bail bond premium. It also prohibits the financing of a bail bond premium without a written agreement and prohibits the bondsman from surrendering the person subject to the bond solely for their failure to perform obligations under the bond agreement.

Virginia H.B. 2450 (remove mandate of pretrial from new jail construction): Failed

This bill would have removed the mandatory requirement that communities establish pretrial services agencies as part of community-based corrections programs and would have made it permissive or optional.

Washington SB 5056 (adopts bail study recommendations, develop risk assessment tool): Reintroduced and retained as of 4/26/11

Among other things, this bill would provide for the development, validation, use, and monitoring of a risk assessment tool to be used in pretrial release and detention, provides funding to courts for implementation of the tool, and increases regulation of commercial sureties in as follows: 1) permits sureties to return defendants to custody only for good cause, upon penalty of returning all fees to the defendant; 2) requires sureties to report unpaid forfeitures with the licensing board; 3) expands the definition of "unprofessional conduct" to include surrendering defendants without good cause and entering into contracts to act as power of attorney over a defendant's assets, finances, or property.

Washington Lakewood Police Officers' Memorial Act: Washington's voters ratified it on 11/2/10.

This law requires judicial officers to consider community safety in setting nonfinancial pretrial conditions of release, and to detain defendants prior to trial where the officer finds that no conditions of release will assure the safety of the community or of other persons. The law provides for a variety of procedural steps the court must take before detaining the defendant, and elucidates the category of defendants to which this bill applies. The bill was introduced concurrently last session with an amendment to Washington's Constitution that permitted the pretrial detention and approved.

Washington H.B. 2625: Enacted 3/31/11

This bill requires judges to determine bail and pretrial release on an individualized basis for every person arrested and detained for a felony offense. It states that the legislature's intention is to eliminate the practice of allowing release on bail where the bail is based on a bail schedule and not individually determined by a judicial officer.

Wisconsin Budget Bill (reintroduction of commercial surety): Failed

Section 20 of the current Wisconsin 2012 Budget bill would have allowed for the return of commercial bail bonding for profit in the state. Governor has expressed interest and it will likely be explored and a bill introduced in the next session.

United States Congress

HR 1885 – Federal Citizens' Right to Know for any counties that take Byrne/JAG funding. No action from House as of 5/12/11.

HR 408 – Spending Reduction Act – no federal funding from Byrne/JAG could be used to support pretrial programs, a currently allowable category of dozens. No action from House as of 3/23/11.