

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

580D0588

SENATE BILL NO. 156

Introduced by: Senators Whiting, Brosz, Daugaard, Hainje, Olson, and Shoener and
Representatives Roe, Brown (Richard), Jaspers, Michels, Smidt, and Wilson

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding bonds and conditions
2 of release imposed to assure the appearance of a defendant.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-22-1 be amended to read as follows:

5 58-22-1. ~~The following words when Terms used in this chapter shall have the following~~
6 ~~meanings~~ mean:

7 (1) "Bail bond," an appearance bond in a specified amount executed by the deposit of
8 cash with the clerk of the court, or executed by a licensed property bondsman,
9 surety bondsman, or professional bondsman, guaranteeing only the defendant's
10 appearance at scheduled court appearances;

11 (2) "Bail bond forfeiture," the order forfeiting an appearance bond executed for a
12 defendant who fails to appear for a scheduled court hearing;

13 (3) "Bail ~~bondsman~~ bondsman," shall ~~mean~~ a surety ~~bondsman~~ bondsman,
14 professional ~~bondsman~~ bondsman, or a licensed property ~~bondsman~~ bondsman as hereinafter
15 defined: bondsman;

16 (4) ~~"Insurer," shall mean~~ any domestic, foreign, or alien surety company which has

1 qualified generally to transact surety business and specifically to transact bail bond
2 business in this state;

3 ~~(3)(5)~~ "Professional ~~bondsman~~ bondsperson," ~~shall mean~~ any person who has been approved
4 by the director and who pledges cash or approved unregistered bonds as security for
5 a bail bond in connection with a judicial proceeding and receives or is promised
6 money or other things of value;

7 ~~(4)(6)~~ "Property ~~bondsman~~ bondsperson," is a person who pledges real or other property as
8 security for a bail bond in a judicial proceeding and who receives or is promised
9 money or other things of value therefor;

10 (7) "Revocation of release, the order revoking a defendant's release for violation of any
11 condition of release set by the court;

12 ~~(5)(8)~~ "Runner," ~~shall mean~~ a person employed by a bail ~~bondsman~~ bondsperson for the
13 purpose of assisting the bail ~~bondsman~~ bondsperson in presenting the defendant in
14 court when required or ~~to assist~~ assisting in apprehension and surrender of the
15 defendant to the court, or keeping the defendant under necessary surveillance. This
16 does not affect the right of a bail ~~bondsman~~ bondsperson to hire counsel or to ask
17 assistance of law enforcement officers;

18 ~~(6)(9)~~ "Surety ~~bondsman~~ bondsperson," ~~shall mean~~ any person who has been approved by
19 the director and appointed by an insurer by power of attorney to execute or
20 countersign bail bonds for the insurer in connection with judicial proceedings and who
21 receives or is promised money or other things of value therefor.

22 Section 2. Upon a showing that there has been a failure to make a required appearance for
23 a scheduled court hearing without good cause, the court may issue an order forfeiting an
24 appearance bond. If the defendant is not in custody, the court shall direct the clerk to issue a
25 warrant for the defendant's arrest. Upon the performance of the appearance bond, the deposit

1 shall be returned.

2 Section 3. That § 23A-43-3 be amended to read as follows:

3 23A-43-3. ~~When~~ If a determination is made that a release pursuant to § 23A-43-2 ~~will~~ does
4 not reasonably assure the appearance of the defendant as required, the committing magistrate or
5 court shall, either in lieu of or in addition to the methods of release described in § 23A-43-2,
6 impose ~~the first~~ any of the following conditions of release which will reasonably assure the
7 appearance of the defendant for trial ~~or, if no single condition gives that assurance, any~~
8 ~~combination of the following conditions:~~

9 (1) Place the defendant in the custody of a designated person or organization agreeing to
10 supervise ~~him~~ the defendant;

11 (2) Place restrictions on the travel, association, or place of abode of the defendant during
12 the period of release;

13 (3) Require an appearance bond in a specified amount. ~~The bond shall be executed by~~
14 ~~depositing with the clerk of the court, in cash or other security, as directed, a sum not~~
15 ~~to exceed ten percent of the amount of the bond. The deposit shall be returned upon~~
16 ~~the performance of the conditions of release, which may either be executed by the~~
17 ~~deposit of cash with the clerk of the court, or by execution of an appearance bond by~~
18 ~~a licensed property bondsperson, surety bondsperson, or professional bondsperson;~~

19 or

20 (4) ~~Require the execution of a bail bond with sufficient solvent sureties, or the deposit of~~
21 ~~cash in lieu of a bail bond; or~~

22 ~~(5)~~ ~~Impose any other condition reasonably necessary to assure the defendant's appearance~~
23 ~~as required, including a condition requiring that the defendant return to custody after~~
24 ~~specified hours.~~

25 Section 4. That § 23A-43-21 be amended to read as follows:

1 23A-43-21. Upon a showing that there has been a material breach of a condition of release
2 without good cause, the court shall declare a ~~forfeiture of the bond, if any,~~ revocation of the
3 defendant's release and shall enter an order revoking the conditions of release. If the defendant
4 is not in custody, the court shall direct the clerk to issue a warrant for the defendant's arrest. The
5 defendant shall remain in custody until discharged by due course of law.