CHAPTER 132

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CRIMINAL LAW AND PROCEDURE

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AN ACT

CONCERNING PROHIBITING THE USE OF MONETARY BAIL FOR CERTAIN LEVELS OF OFFENSES EXCEPT IN CERTAIN CIRCUMSTANCES.

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

SECTION 1. In Colorado Revised Statutes, 16-4-113, **amend** (1) introductory portion; and **add** (2) as follows:

16-4-113. Type of bond in certain misdemeanor cases. (1) In exercising the discretion mentioned in section 16-4-104, the judge shall release the accused person upon personal recognizance if the charge is a class 3 misdemeanor or a petty offense, or any unclassified offense for a violation of which the maximum penalty does not exceed six months' imprisonment, and he or she shall not be required to supply a surety bond, or give security of any kind for his or her appearance for trial other than his or her personal recognizance, unless one or more of the following facts are found to be present:

(2) (a) FOR A DEFENDANT CHARGED WITH A TRAFFIC OFFENSE, A PETTY OFFENSE, OR A COMPARABLE MUNICIPAL OFFENSE, A COURT SHALL NOT IMPOSE A MONETARY CONDITION OF RELEASE. IF THE COMPARABLE MUNICIPAL OFFENSE IS A PROPERTY CRIME AND THE FACTUAL BASIS REFLECTS A VALUE OF LESS THAN FIFTY DOLLARS AND THE OFFENSE WOULD BE A PETTY OFFENSE UNDER STATE LAW, THIS SUBSECTION (2)(a) APPLIES.

(b) FOR A DEFENDANT CHARGED WITH A MUNICIPAL OFFENSE FOR WHICH THERE

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Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

IS NO COMPARABLE STATE MISDEMEANOR OFFENSE, THE COURT SHALL NOT IMPOSE A MONETARY CONDITION OF RELEASE.

(c) AFTER ARREST, BUT PRIOR TO AN INDIVIDUAL CONSIDERATION OF BOND BY A JUDGE, BONDING COMMISSIONER, JUDICIAL OFFICER, OR JUDICIAL DESIGNEE WITH THE POWER TO SET CONDITIONS OF RELEASE, THIS SUBSECTION (2) DOES NOT PROHIBIT THE RELEASE OF A DEFENDANT PURSUANT TO LOCAL PRETRIAL RELEASE POLICIES, INCLUDING THOSE THAT REQUIRE PAYMENT OF A MONETARY CONDITION OF RELEASE, IF THE DEFENDANT IS FIRST INFORMED THAT THE DEFENDANT IS ENTITLED TO RELEASE ON A PERSONAL RECOGNIZANCE BOND.

(d) NOTHING IN THIS SUBSECTION (2) PROHIBITS THE ISSUANCE OF A WARRANT WITH MONETARY CONDITIONS OF BOND FOR A DEFENDANT WHO FAILS TO APPEAR IN COURT AS REQUIRED OR WHO VIOLATES A CONDITION OF RELEASE. IF A DEFENDANT IS UNABLE TO POST THE MONETARY CONDITION OF BOND PRIOR TO THE NEXT INDIVIDUALIZED CONSIDERATION OF BOND, THE JUDGE, BONDING COMMISSIONER, JUDICIAL OFFICER, OR JUDICIAL DESIGNEE WITH THE POWER TO SET CONDITIONS OF RELEASE SHALL RELEASE THE PERSON ON PERSONAL RECOGNIZANCE.

(e) THE PROVISIONS OF THIS SUBSECTION (2) DO NOT APPLY TO:

(I) A TRAFFIC OFFENSE INVOLVING DEATH OR BODILY INJURY OR A MUNICIPAL OFFENSE WITH SUBSTANTIALLY SIMILAR ELEMENTS;

(II) ELUDING OR ATTEMPTING TO ELUDE A POLICE OFFICER AS DESCRIBED IN SECTION 42-4-1413 OR A MUNICIPAL OFFENSE WITH SUBSTANTIALLY SIMILAR ELEMENTS;

(III) OPERATING A VEHICLE AFTER CIRCUMVENTING AN INTERLOCK DEVICE AS DESCRIBED IN SECTION 42-2-132.5 (10) OR A MUNICIPAL OFFENSE WITH SUBSTANTIALLY SIMILAR ELEMENTS; AND

(IV) A MUNICIPAL OFFENSE THAT HAS SUBSTANTIALLY SIMILAR ELEMENTS TO A STATE MISDEMEANOR OFFENSE.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 25, 2019