

Gen. Judiciary 3/14 Do Pass 3/20 (p. 935)

HOUSE FILE 2452

Judiciary  
RosenA. Chair  
Mann  
Small

~~HOUSE FILE~~ 1984

Place On Calendar

HOUSE FILE 2452

BY COMMITTEE ON JUDICIARY  
AND LAW ENFORCEMENT

(Formerly House File 2309)

Passed House, Date 3-13-84 (p. 997) Passed Senate, Date 3-27-84 (p. 1078)

Vote: Ayes 99 Nays 0 Vote: Ayes 48 Nays 0

Approved April 27, 1984

## A BILL FOR

1 An Act relating to the requirement of bail during and after  
2 a period of deferred judgment and to the discharge of  
3 surety bail upon the occurrence of specified conditions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2452

1 Section 1. Section 811.2, subsection 1, unnumbered para-  
2 graph 1, Code Supplement 1983, is amended to read as follows:

3 All bailable defendants shall be ordered released from  
4 custody pending judgment or entry of deferred judgment on  
5 their personal recognizance, or upon the execution of an  
6 unsecured appearance bond in an amount specified by the  
7 magistrate unless the magistrate determines in the exercise  
8 of the magistrate's discretion, that such a release will not  
9 reasonably assure the appearance of the defendant as required  
10 or that release will jeopardize the personal safety of another  
11 person or persons. When such determination is made, the  
12 magistrate shall, either in lieu of or in addition to the  
13 above methods of release, impose the first of the following  
14 conditions of release which will reasonably assure the  
15 appearance of the person for trial or deferral of judgment  
16 and the safety of ~~another person or~~ other persons, or, if  
17 no single condition gives that assurance, any combination  
18 of the following conditions:

19 Sec. 2. Section 811.2, subsection 1, paragraph d, Code  
20 Supplement 1983, is amended to read as follows:

21 d. Require the execution of a bail bond with sufficient  
22 surety, or the deposit of cash in lieu ~~thereof, provided that~~  
23 of bond. However, except as provided in section 811.1, bail  
24 initially given ~~shall remain~~ remains valid until final  
25 disposition of the offense or entry of an order deferring  
26 judgment. If the amount of bail is deemed insufficient by  
27 the court before whom the offense is pending, the court may  
28 order an increase ~~thereof~~ of bail and the defendant must  
29 provide the additional undertaking, written or in cash, to  
30 secure ~~his or her~~ release.

31 Sec. 3. NEW SECTION. 811.10 DISCHARGE OF SURETY. When  
32 a defendant is admitted to bail by means of a surety bail  
33 bond pursuant to section 811.2, subsection 1, paragraph "d",  
34 the obligation of surety shall be discharged, and the surety  
35 released, upon any of the following conditions:

- 1 1. Dismissal of the charges against the defendant.
- 2 2. Judgment of acquittal against the defendant.
- 3 3. Judgment of conviction against the defendant.
- 4 4. Entry of an order deferring judgment of the defendant.
- 5 5. Entry of an order by the court which, by its terms,
- 6 continues the case against the defendant for a period exceeding
- 7 six months.

8 Sec. 4. NEW SECTION. 811.11 BAIL AFTER DEFERRED JUDG-  
 9 MENT. Upon entry of an order by the court deferring judgment,  
 10 effecting a discharge of the surety as required under sec-  
 11 tion 811.10, the defendant may be admitted to bail, as a con-  
 12 dition of the deferral of judgment. Admittance to bail under  
 13 this section, if required by the court, requires a new bail  
 14 undertaking by the defendant. The surety under this section  
 15 is responsible only for the failure of the defendant to ap-  
 16 pear at required court appearances during the period of  
 17 deferral of judgment.

18 EXPLANATION

19 Sections 1 and 2 of this bill include deferral of judgments  
 20 as dispositions for the purpose of setting conditions for  
 21 the release of a defendant.

22 Section 3 of the bill requires that an obligation of surety  
 23 be discharged upon the happening of any of the specified  
 24 conditions, which include dismissal, acquittal, conviction,  
 25 deferral or long-term continuance.

26 Section 4 of the bill provides that the entry of a de-  
 27 ferred judgment requires discharge of the surety or bail pre-  
 28 viously provided and that if the court requires surety or  
 29 bail after entry of deferral, that a new surety or bail must  
 30 be obtained by the defendant.

31 This bill takes effect July 1 following its enactment.

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HOUSE FILE 2452

AN ACT

RELATING TO THE REQUIREMENT OF BAIL DURING AND AFTER A PERIOD OF DEFERRED JUDGMENT AND TO THE DISCHARGE OF SURETY BAIL UPON THE OCCURRENCE OF SPECIFIED CONDITIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 811.2, subsection 1, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

All bailable defendants shall be ordered released from custody pending judgment or entry of deferred judgment on their personal recognizance, or upon the execution of an unsecured appearance bond in an amount specified by the magistrate unless the magistrate determines in the exercise of the magistrate's discretion, that such a release will not reasonably assure the appearance of the defendant as required or that release will jeopardize the personal safety of another person or persons. When such determination is made, the magistrate shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or deferral of judgment

and the safety of ~~another person or~~ other persons, or, if no single condition gives that assurance, any combination of the following conditions:

Sec. 2. Section 811.2, subsection 1, paragraph d, Code Supplement 1983, is amended to read as follows:

d. Require the execution of a bail bond with sufficient surety, or the deposit of cash in lieu ~~thereof~~ ~~provided that~~ of bond. However, except as provided in section 811.1, bail initially given ~~shall remain~~ remains valid until final disposition of the offense or entry of an order deferring judgment. If the amount of bail is deemed insufficient by the court before whom the offense is pending, the court may order an increase ~~thereof~~ of bail and the defendant must provide the additional undertaking, written or in cash, to secure ~~his or her~~ release.

Sec. 3. NEW SECTION. 811.10 DISCHARGE OF SURETY. When a defendant is admitted to bail by means of a surety bail bond pursuant to section 811.2, subsection 1, paragraph "d", the obligation of surety shall be discharged, and the surety released, upon any of the following conditions:

1. Dismissal of the charges against the defendant.
2. Judgment of acquittal against the defendant.
3. Judgment of conviction against the defendant.
4. Entry of an order deferring judgment of the defendant.
5. Entry of an order by the court which, by its terms, continues the case against the defendant for a period exceeding six months.

Sec. 4. NEW SECTION. 811.11 BAIL AFTER DEFERRED JUDGMENT. Upon entry of an order by the court deferring judgment, effecting a discharge of the surety as required under section 811.10, the defendant may be admitted to bail, as a condition of the deferral of judgment. Admittance to bail under this section, if required by the court, requires a new bail undertaking by the defendant. The surety under this section is responsible only for the failure of the defendant to ap-

pear at required court appearances during the period of deferral of judgment.

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DONALD D. AVENSON  
Speaker of the House

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ROBERT T. ANDERSON  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2452, Seventieth General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved April 27, 1984

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TERRY E. BRANSTAD  
Governor