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HOUSE BILL 175

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO CRIMES; PROHIBITING A PAID SURETY FROM ARRESTING A
PERSON UNLESS THE ARRESTED PERSON HAS BEEN CHARGED WITH A
FELONY; PROVIDING A CRIMINAL PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Criminal Code is enacted
to read:

"[NEW MATERIAL] ILLEGAL ARREST BY A PAID SURETY. --

A. Illegal arrest by a paid surety consists of a
paid surety intentionally arresting a person who has not been
charged with a crime constituting a felony.

B. As used in this section, "paid surety" means:

(1) a person that has taken money, property or
other consideration by or on behalf of a person charged with a
crime in order to enter into a bail bond obligation benefiting

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1 that person; or

2 (2) an agent of a paid surety described in
3 Paragraph (1) of this subsection.

4 C. Whoever commits illegal arrest by a paid surety
5 is guilty of a fourth degree felony. "

6 Section 2. Section 31-3-4 NMSA 1978 (being Laws 1972,
7 Chapter 71, Section 11) is amended to read:

8 "31-3-4. PAID SURETIES. --

9 A. A "paid surety" is a surety that has taken
10 money, property or other consideration to act as a surety for
11 the accused.

12 B. If the accused has been charged with a crime
13 constituting a felony, when a paid surety desires to be
14 discharged from the obligation of its bond, it may arrest the
15 accused and deliver him to the sheriff of the county in which
16 the action against the accused is pending.

17 C. The paid surety shall, at the time of
18 surrendering the accused, deliver to the sheriff a certified
19 copy of the order admitting the accused to bail and a certified
20 copy of the bail bond. Delivery of these documents shall be
21 sufficient authority for the sheriff to receive and retain the
22 accused until he may be brought before the court.

23 D. A paid surety may be released from the
24 obligation of its bond only by an order of the court.

25 E. The court shall order the discharge of a paid

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surety if:

(1) there has been a final disposition of all charges against the accused;

(2) the accused is dead;

(3) circumstances have arisen which the surety could not have foreseen at the time it became a paid surety for the accused; or

(4) the contractual agreement between the surety, the principal and the state has terminated. "