

Hidalgo County District Attorney's Office

A faint, stylized illustration of a pair of scales of justice is visible in the background, positioned on the right side of the page. The scales are rendered in a dark brown color, matching the background, and are slightly out of focus.

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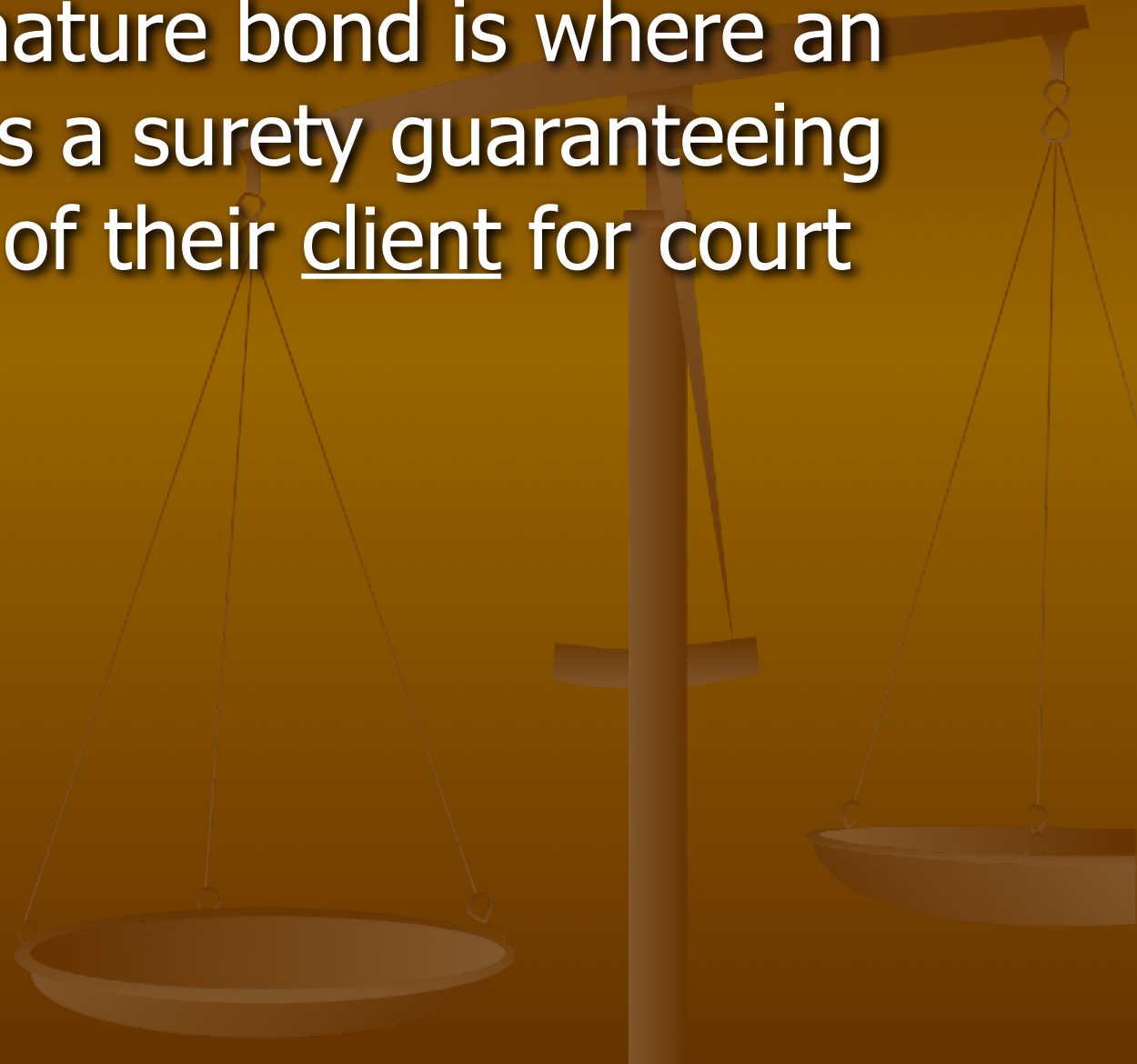
ATTORNEY SIGNATURE BONDS

- What are they?
- Statutory authority
- Practical Implementation
 - How to qualify
 - Who can sign?
 - Can it affect you?



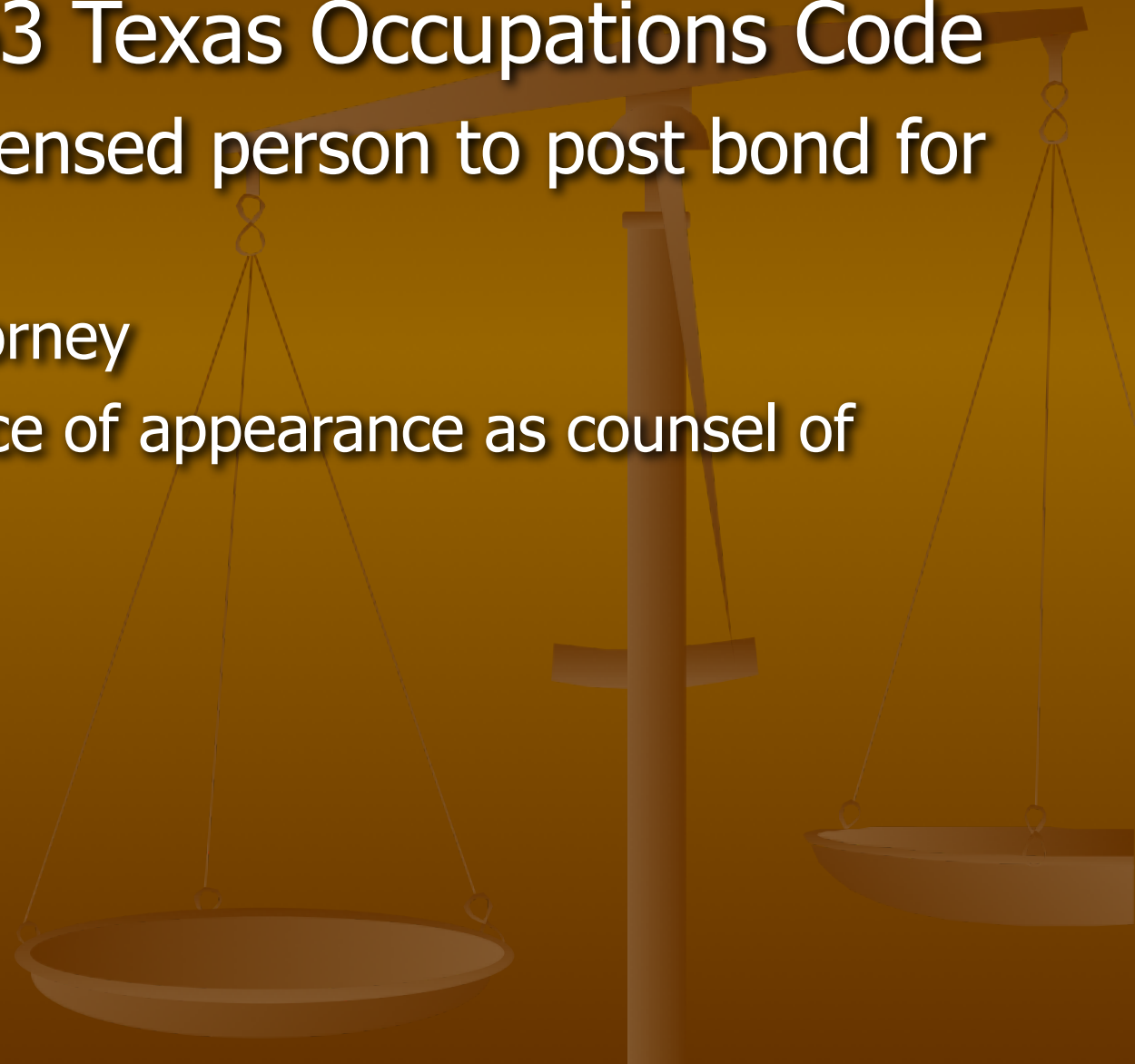
ATTORNEY SIGNATURE BONDS

- An attorney signature bond is where an attorney signs as a surety guaranteeing the appearance of their client for court proceedings.



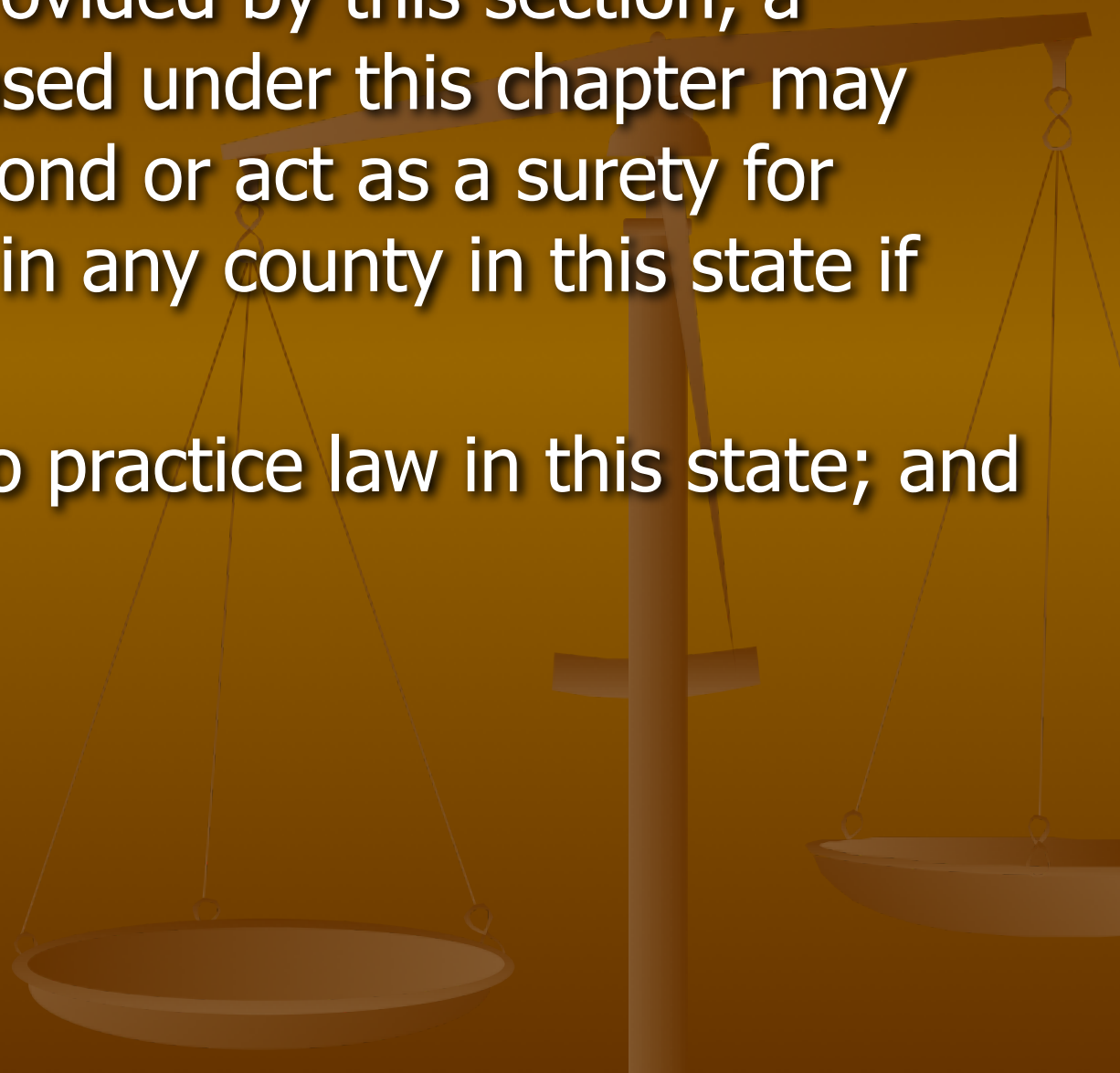
ATTORNEY SIGNATURE BONDS

- Section 1704.163 Texas Occupations Code
 - Allows a non-licensed person to post bond for an individual
 - Must be an attorney
 - Must file a notice of appearance as counsel of record

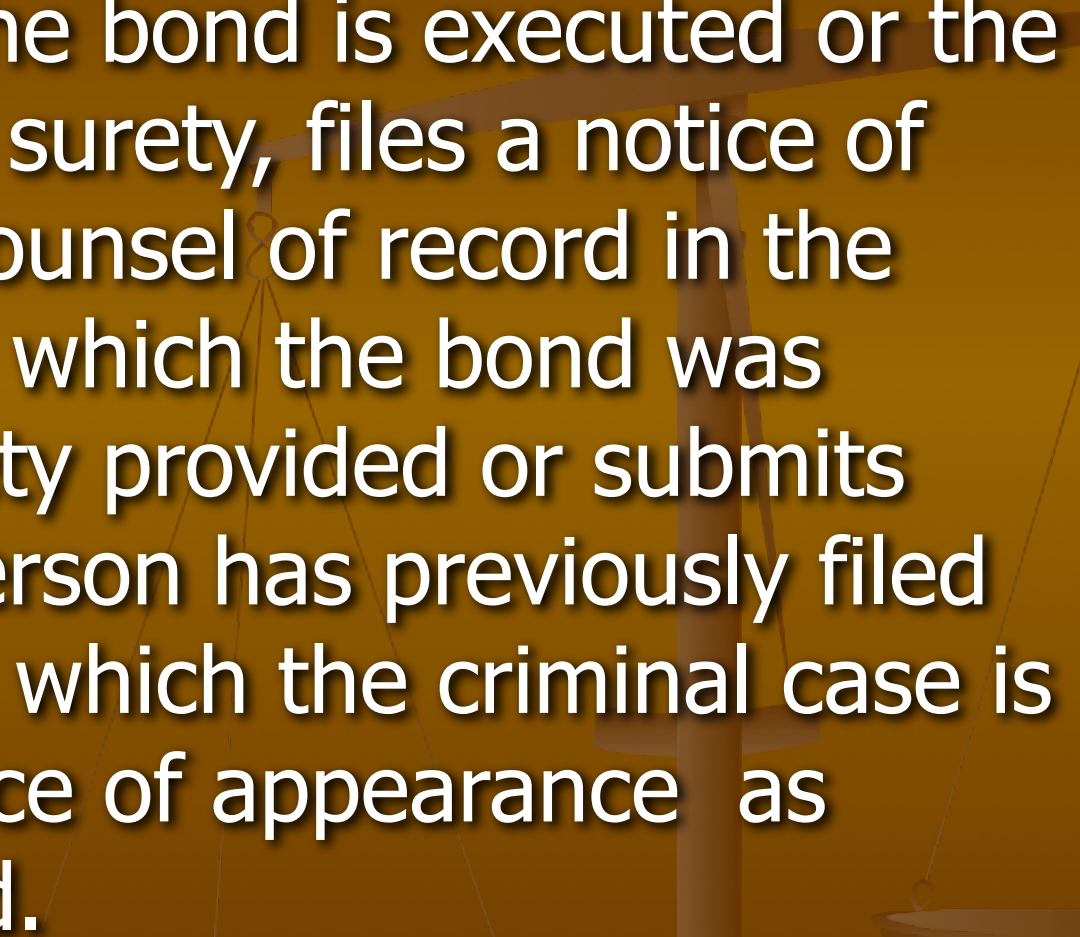


Sec. 1704.163

- (a) Except as provided by this section, a person not licensed under this chapter may execute a bail bond or act as a surety for another person in any county in this state if the person:
 - (1) is licensed to practice law in this state; and



Sec. 1704.163 cont'd

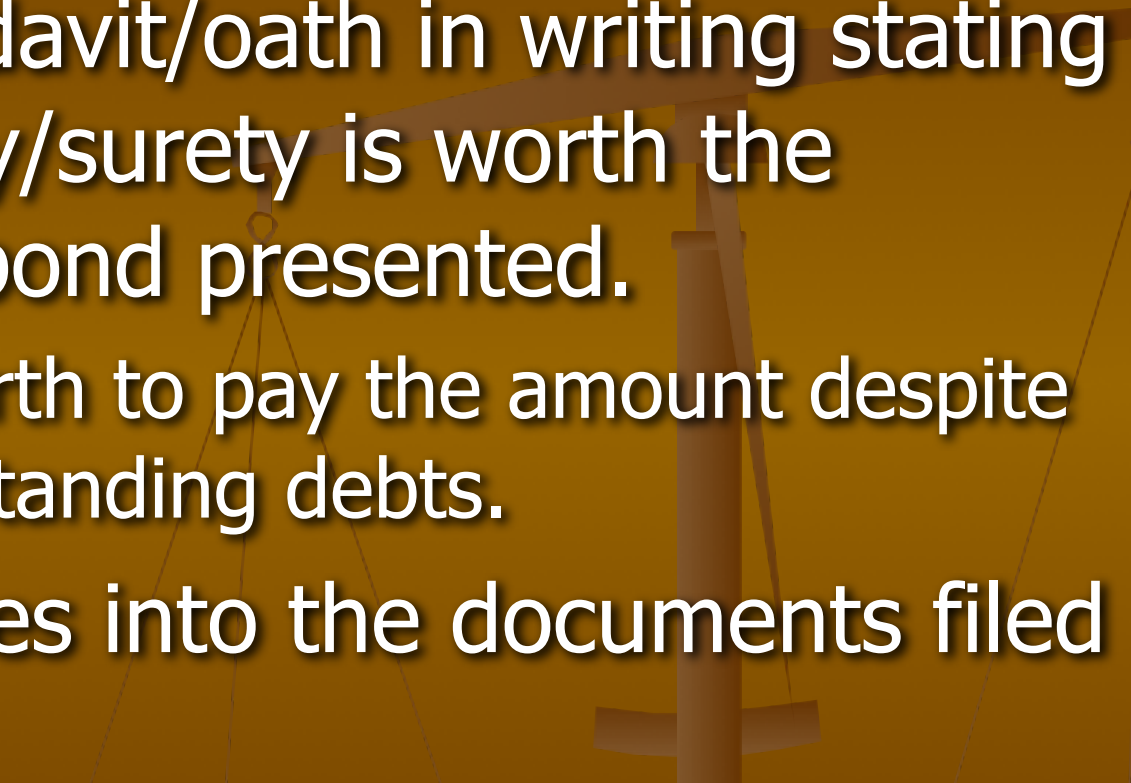
- (2) at the time the bond is executed or the person acts as a surety, files a notice of appearance as counsel of record in the criminal case for which the bond was executed or surety provided or submits proof that the person has previously filed with the court in which the criminal case is pending the notice of appearance as counsel of record.
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HOW DO YOU QUALIFY



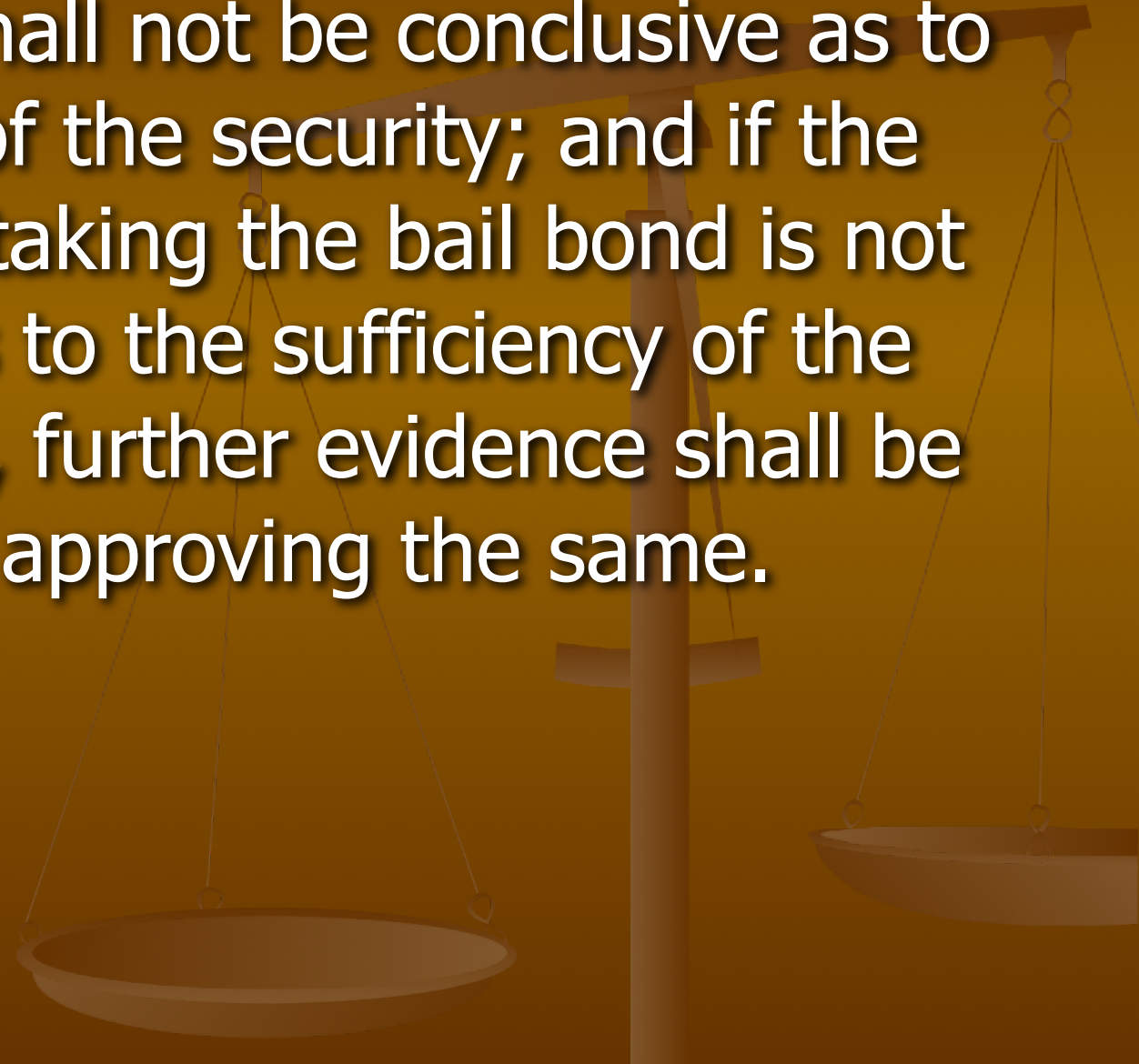
- Be an attorney
 - Expect to present your Bar Card at the jail when you apply.
 - Also be prepared to present your financial information to the jail.
 - Must prove your financial sufficiency under Sec. 17.13 and Sec. 17.14

TCCP SEC. 17.13 SUFFICIENCY OF SURETIES ASCERTAINED

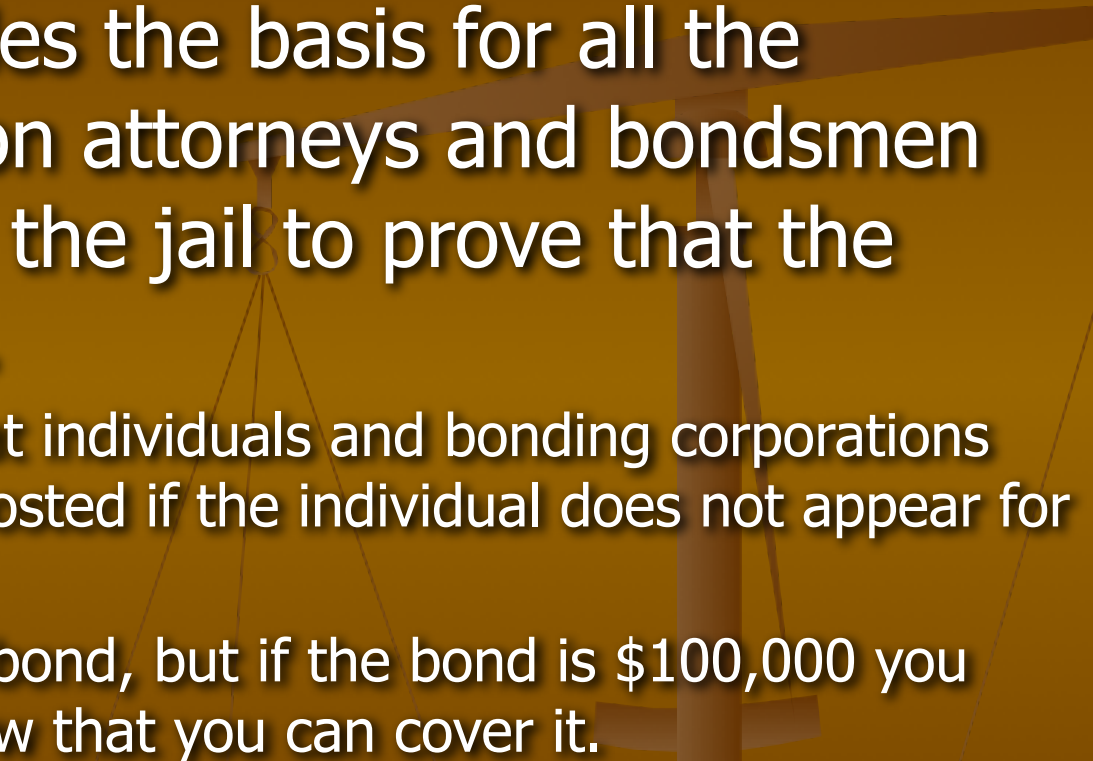
- Requires an affidavit/oath in writing stating that the attorney/surety is worth the amount on the bond presented.
 - This is a net worth to pay the amount despite any and all outstanding debts.
 - This affidavit goes into the documents filed in Odyssey.
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TCCP SEC. 17.14 AFFIDAVIT NOT CONCLUSIVE

- Such affidavit shall not be conclusive as to the sufficiency of the security; and if the court or officer taking the bail bond is not fully satisfied as to the sufficiency of the security offered, further evidence shall be required before approving the same.

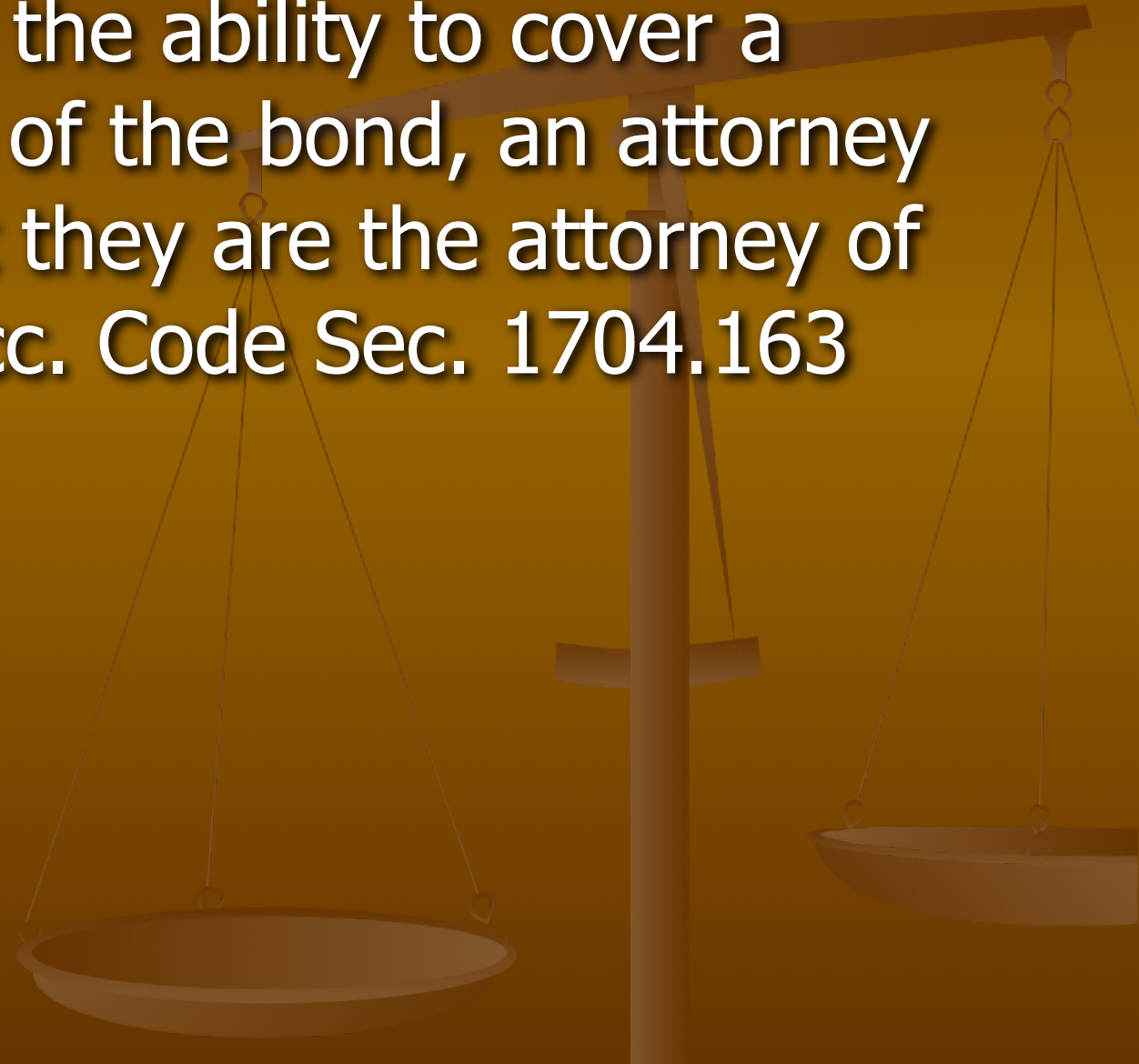


TCCP SEC. 17.14

- This section provides the basis for all the financial information attorneys and bondsmen need to provide to the jail to prove that the surety is sufficient.
 - Need to make sure that individuals and bonding corporations can cover the bonds posted if the individual does not appear for court.
 - EX: Can cover a \$500 bond, but if the bond is \$100,000 you have to be able to show that you can cover it.
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Notice

- Besides proving the ability to cover a possible default of the bond, an attorney must prove that they are the attorney of record under Occ. Code Sec. 1704.163



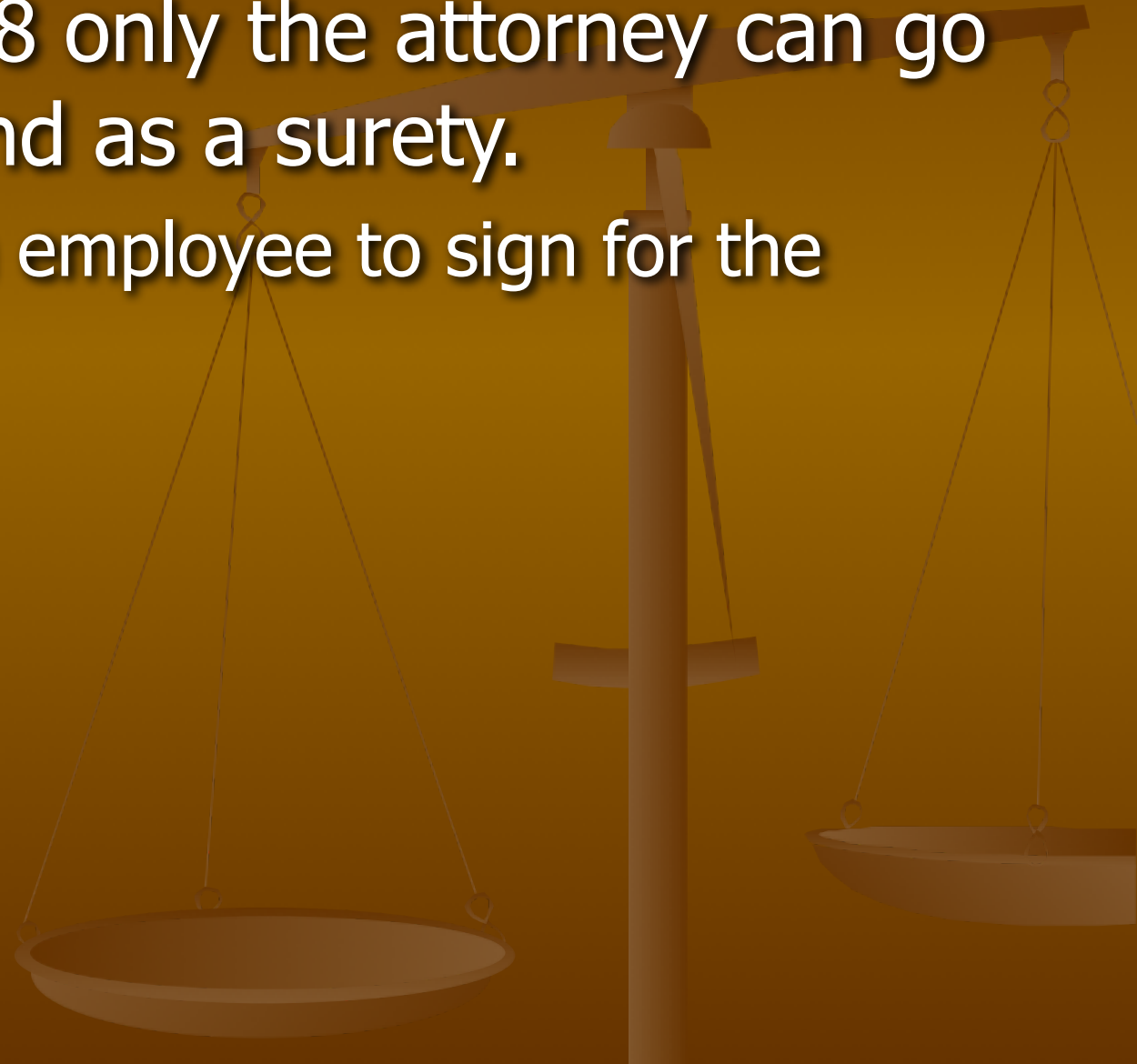
NOTICE CONT'D



- Can be done in two ways:
 - Provide paperwork that has been filed by your office in the case.
 - EX: Motions, letter of representation, order appointing.
 - Sign a notice of appearance form provided by the jail stating that you are the attorney of record for the individual you are posting the bond for.
 - This document will travel with the file if the case has not yet been indicted or filed.

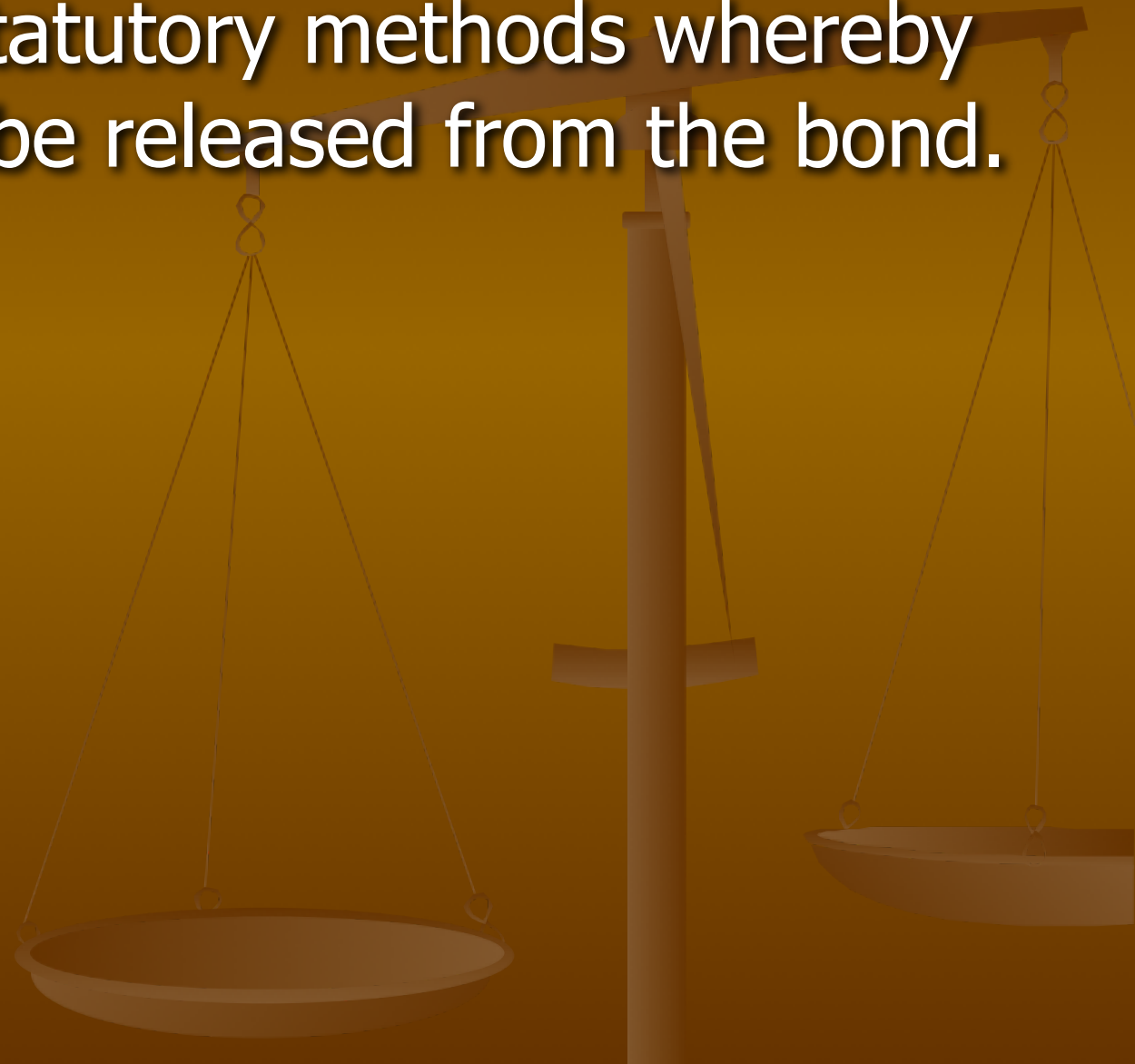
TCCP SEC. 17.08(4)

- Under Sec. 17.08 only the attorney can go sign the bail bond as a surety.
 - Cannot send an employee to sign for the attorney.



SURRENDER & EXONERATION

- These are the statutory methods whereby the surety may be released from the bond.
 - TCCP Statutes:
 - Sec. 17.16
 - Sec. 17.17
 - Sec. 17.18
 - Sec. 17.19
 - Sec. 22.13



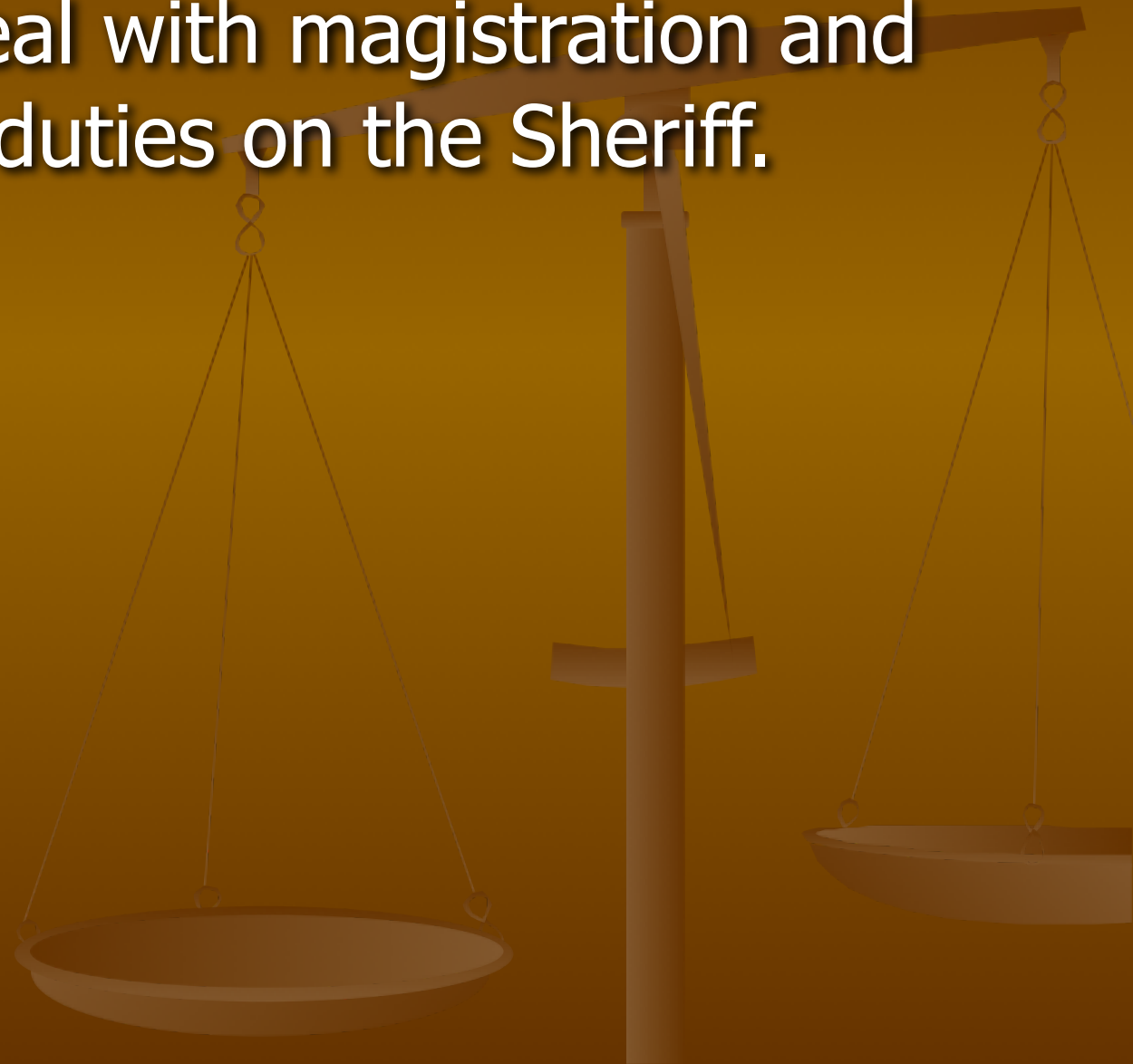
SEC. 17.16



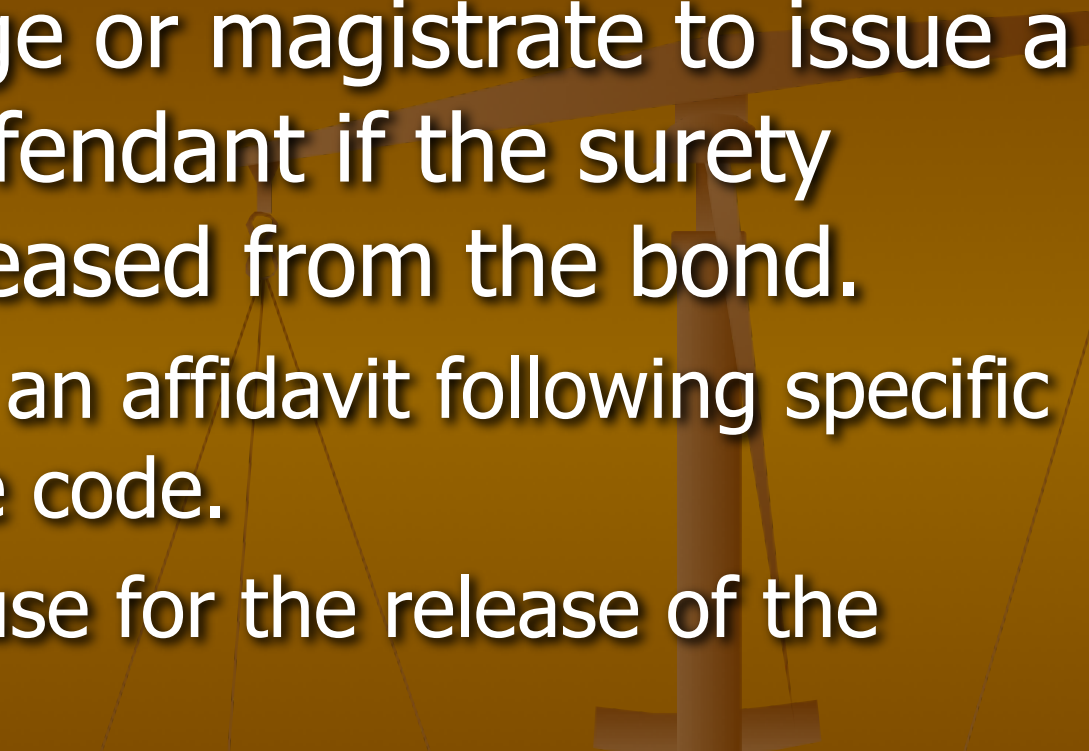
- The statute allows for the surety to surrender the bond if the defendant is the custody of any law enforcement agency.
 - Can be state or federal
 - This does not apply if the individual was picked up by a federal agency in order to determine his/her residency status.
 - Once filed a detainer or new capias will be issued to hold the defendant until the bond is re-posted.
 - The original bond is still in effect.

SEC. 17.17 & SEC. 17.18

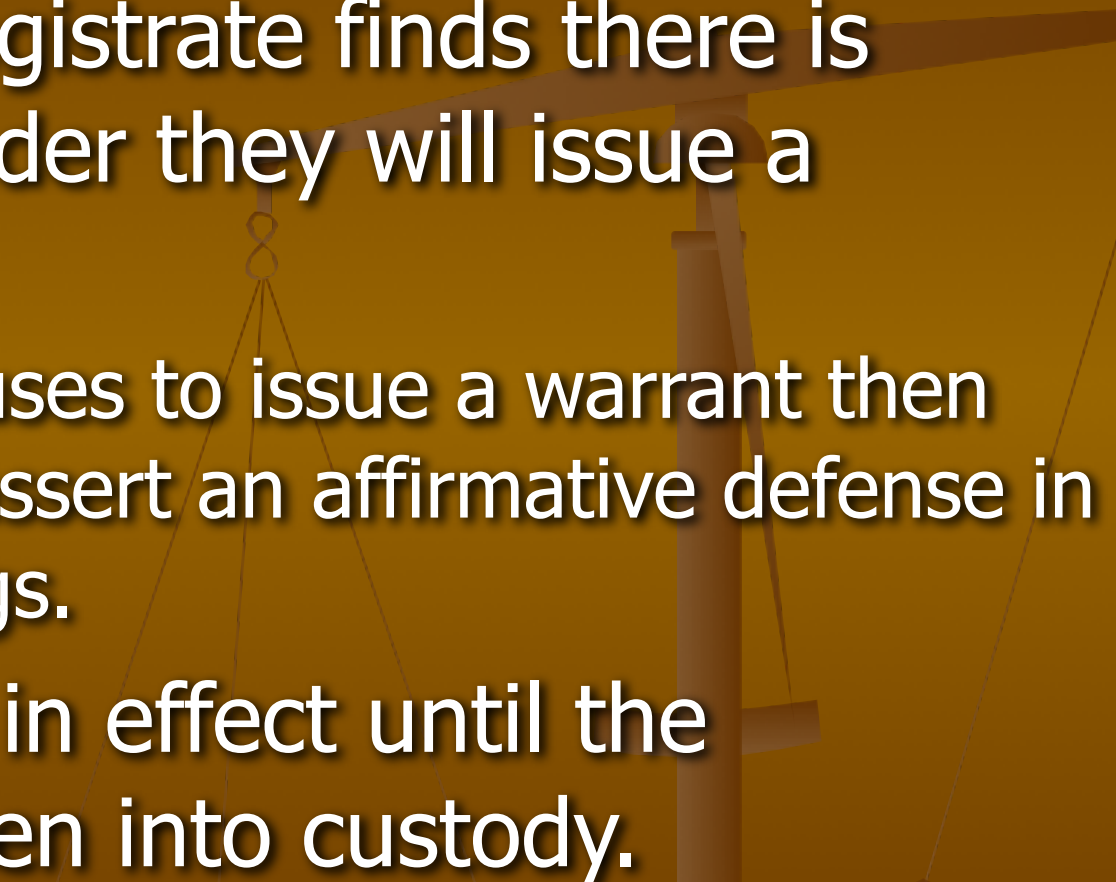
- Both statutes deal with magistration and impose specific duties on the Sheriff.



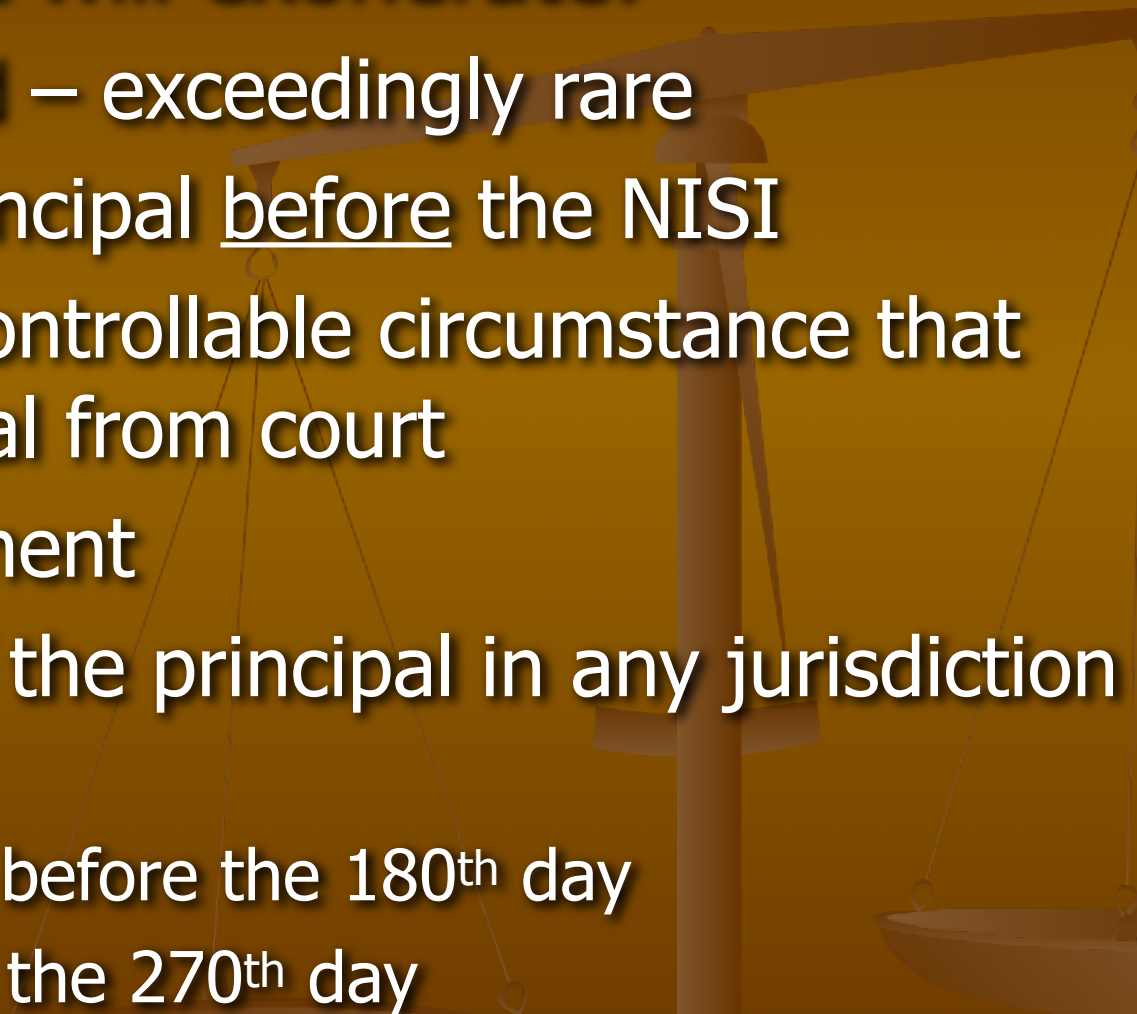
SEC. 17.19

- Allows for a judge or magistrate to issue a warrant for a defendant if the surety wishes to be released from the bond.
 - Surety must file an affidavit following specific guidelines in the code.
 - Must state a cause for the release of the surety.
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SEC. 17.19 Cont'd

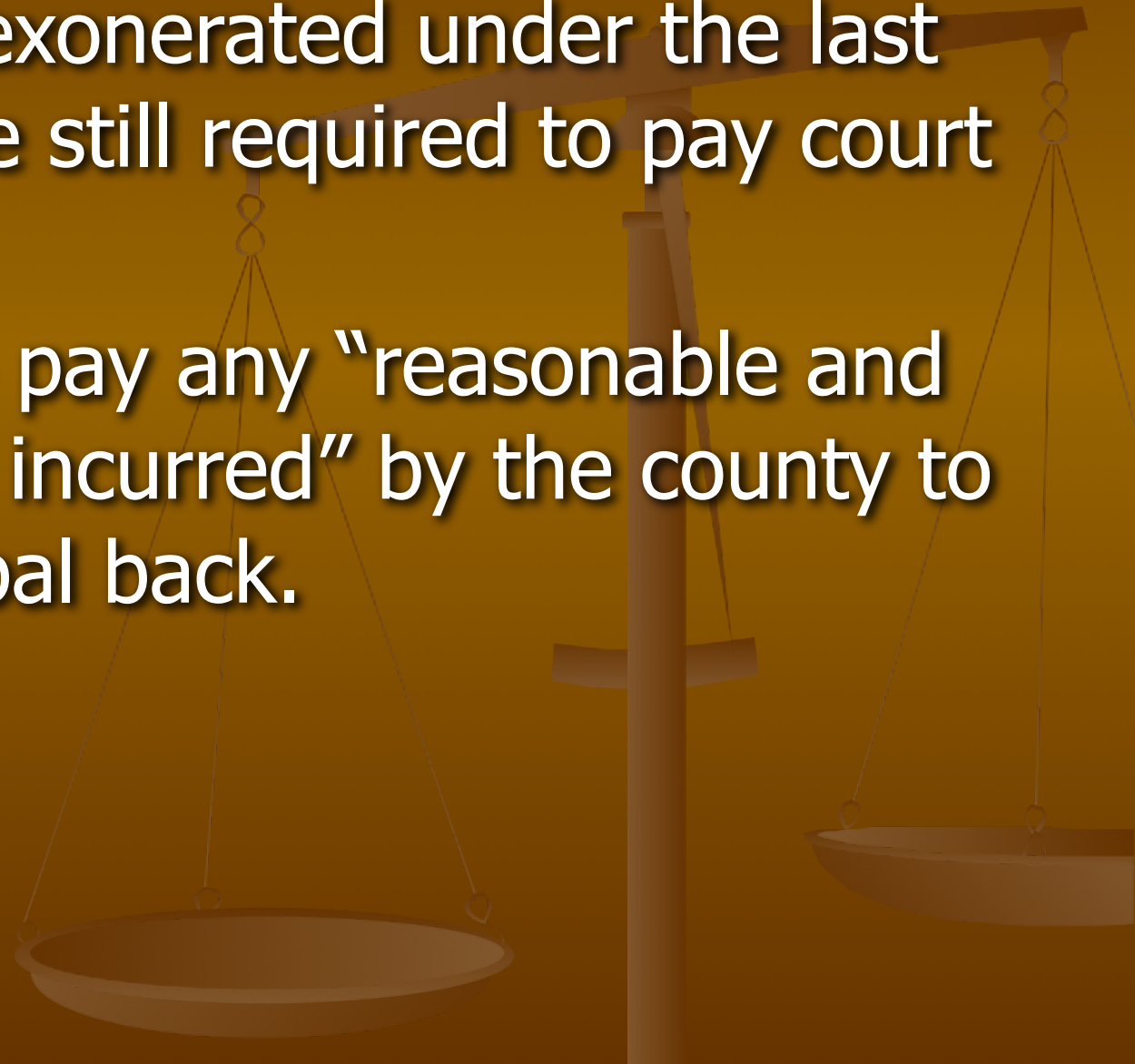
- If a judge or magistrate finds there is cause for surrender they will issue a warrant/capias.
 - If the judge refuses to issue a warrant then the surety can assert an affirmative defense in the NISI hearings.
 - The bond is still in effect until the defendant is taken into custody.
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SEC. 22.13

- Lists causes that will exonerate:
 - Not a valid bond – exceedingly rare
 - Death of the principal before the NISI
 - Sickness or uncontrollable circumstance that kept the principal from court
 - Untimely indictment
 - Incarceration of the principal in any jurisdiction in the U.S.
 - Misdemeanor – before the 180th day
 - Felony – before the 270th day
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SEC. 22.13

- If the surety is exonerated under the last section, they are still required to pay court costs.
- Also required to pay any “reasonable and necessary costs incurred” by the county to bring the principal back.



CAN BONDING AFFECT YOU?



- YES!

- Financially

- Once the bond forfeiture case is initiated then we can settle the case, but it will require a pay out.
 - If we get a judgment against an attorney the attorney will owe the full amount on the bond.

- Suspension

- If a final judgment is entered and it is not paid within 30 days, then the jail will suspend all bonding privileges pursuant to Occupations Code Sec. 1704.204

Contact Information

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