

Senate Bill 100

By: Senators Hatchett of the 50th, Robertson of the 29th, Gooch of the 51st, Anavitarte of the 31st, Kennedy of the 18th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 17-6-12 of the Official Code of Georgia Annotated, relating to  
2 unsecured judicial release, requirement, and effect of failure of person charged to appear for  
3 trial, so as to provide for the limitation of unsecured judicial release in certain circumstances  
4 where the accused has a prior conviction for the offense of bail jumping or failure to appear;  
5 to provide for the requirement that an accused's criminal history be considered prior to  
6 issuing an unsecured judicial release; to provide for reconsideration of eligibility; to amend  
7 Code Section 52-7-26 of the Official Code of Georgia Annotated, relating to penalty  
8 regarding general provisions for registration, operation, and sale of watercraft, so as to  
9 provide for a conforming cross reference; to provide for related matters; to repeal conflicting  
10 laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Code Section 17-6-12 of the Official Code of Georgia Annotated, relating to unsecured  
14 judicial release, requirement, and effect of failure of person charged to appear for trial, is  
15 amended as follows:

16 "17-6-12.

17 (a) As used in this Code section, the term:

18 (1) 'Bail restricted offense' means the person is charged with:

19 (A) An offense of:

20 (i) Murder or felony murder, as defined in Code Section 16-5-1;

21 (ii) Armed robbery, as defined in Code Section 16-8-41;

22 (iii) Kidnapping, as defined in Code Section 16-5-40;

23 (iv) Rape, as defined in Code Section 16-6-1;

24 (v) Aggravated child molestation, as defined in subsection (c) of Code Section  
25 16-6-4, unless subject to the provisions of paragraph (2) of subsection (d) of Code  
26 Section 16-6-4;

27 (vi) Aggravated sodomy, as defined in Code Section 16-6-2; or

28 (vii) Aggravated sexual battery, as defined in Code Section 16-6-22.2;

29 (B) A felony offense of:

30 (i) Aggravated assault;

31 (ii) Aggravated battery;

32 (iii) Hijacking a motor vehicle in the first degree;

33 (iv) Aggravated stalking;

34 (v) Child molestation;

35 (vi) Enticing a child for indecent purposes;

36 (vii) Pimping;

37 (viii) Robbery;

38 (viii.1) Burglary;

39 (ix) Bail jumping;

40 (x) Escape;

41 (xi) Possession of a firearm or knife during the commission of or attempt to commit  
42 certain crimes;

- 43 (xii) Possession of firearms by convicted felons and first offender probationers;  
 44 (xiii) Trafficking in cocaine, illegal drugs, marijuana, or methamphetamine;  
 45 (xiv) Participating in criminal street gang activity;  
 46 (xv) Habitual violator;  
 47 (xvi) Driving under the influence of alcohol, drugs, or other intoxicating substances;  
 48 (xvii) Entering an automobile or other mobile vehicle with intent to commit theft or  
 49 felony, as defined in Code Section 16-8-18; or  
 50 (xviii) Stalking; or  
 51 (C) A misdemeanor offense of:  
 52 (i) Crimes involving family violence, as defined in Code Section 19-13-1; or  
 53 (ii) Stalking.
- 54 (2) 'Unsecured judicial release' means any release that does not purport a dollar amount  
 55 through secured means as provided for in Code Section 17-6-4 or 17-6-50 or property as  
 56 approved by the sheriff in the county where the offense was committed and that is:  
 57 (A) On a person's own recognizance; or  
 58 (B) For the purpose of entering a pretrial release program, a pretrial release and  
 59 diversion program as provided for in Article 4 of Chapter 3 of Title 42, or a pretrial  
 60 intervention and diversion program as provided for in Article 4 of Chapter 18 of  
 61 Title 15, or pursuant to Uniform Superior Court Rule 27.
- 62 (b)(1) An elected judge, an appointed judge filling the vacancy of an elected judge, or  
 63 a judge sitting by designation may issue an unsecured judicial release under subparagraph  
 64 (a)(2)(A) of this Code Section if:  
 65 ~~(1)(A)~~ Such unsecured judicial release is noted on the release order; ~~and~~  
 66 ~~(2)(B)~~ The person is not charged with a bail restricted offense;  
 67 (C) The person has not been convicted of an offense provided in Code Section  
 68 16-10-51 within the past ten years; and

69 (D) No bench warrant has been issued for the person's arrest based on such person's  
70 failure to appear in court within the past ten years; provided, however, that this  
71 subparagraph shall not apply if such warrant was recalled.

72 (2) A person who is ineligible for unsecured judicial release pursuant to subparagraph  
73 (C) or (D) of paragraph (1) of this subsection may contest his or her ineligibility on the  
74 basis that his or her criminal history record information is inaccurate, incomplete, or  
75 misleading. In such instance, the prosecuting attorney shall bear the burden of  
76 establishing such person's ineligibility.

77 (c) An elected judge, an appointed judge filling the vacancy of an elected judge, or a judge  
78 sitting by designation may issue an unsecured judicial release under subparagraph (a)(2)(B)  
79 of this Code Section if:

80 (1) Such unsecured judicial release is noted on the release order; and

81 (2) The person is not charged with a bail restricted offense.

82 ~~(e)~~(d) Except as provided in subsection (b) and subsection (c) of this Code section and in  
83 addition to other laws regarding the release of an accused person, the judge of any court  
84 having jurisdiction over a person charged with committing an offense against the criminal  
85 laws of this state shall have authority, in his or her sound discretion and in appropriate  
86 cases, to authorize the release of the person on an unsecured judicial release only.

87 ~~(d)~~(e) Upon the failure of a person released on an unsecured judicial release to appear for  
88 trial, if the release is not otherwise conditioned by the court, absent a finding of sufficient  
89 excuse to appear, the court shall summarily issue an order for his or her arrest which shall  
90 be enforced as in cases of forfeited bonds.

91 (f) Prior to issuing an unsecured judicial release, a judge shall, in addition to the  
92 considerations provided for in Code Section 17-6-1, consider the accused person's criminal  
93 history record information that is available at such time."

94

**SECTION 2.**

95 Code Section 52-7-26 of the Official Code of Georgia Annotated, relating to penalty  
96 regarding general provisions for registration, operation, and sale of watercraft, is amended  
97 in subsection (b) as follows:

98 "(b) Notwithstanding subsection ~~(c)~~ (d) of Code Section 17-6-12, the release of a person  
99 on an unsecured judicial release as provided for in Code Section 17-6-12 for violations  
100 under Code Sections 52-7-12, 52-7-12.2, 52-7-12.3, and 52-7-12.4 shall be prohibited."

101

**SECTION 3.**

102 All laws and parts of laws in conflict with this Act are repealed.