

Senate Bill 225

By: Senators Stone of the 23rd and Shafer of the 48th

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

To amend Article 3 of Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to proceedings for forfeiture of bonds or recognizances, so as to relieve a surety from liability under certain circumstances; to change certain provisions relating to remission of forfeiture; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 3 of Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to proceedings for forfeiture of bonds or recognizances, is amended by revising Code Section 17-6-72, relating to conditions not warranting forfeiture of bond for failure to appear and remission of forfeiture, as follows:

"17-6-72.

(a) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown to the satisfaction of the court by the written statement of a licensed physician that the principal on the bond was prevented from attending ~~by some court due to a~~ mental or physical disability or the principal on the bond was receiving inpatient treatment as involuntary treatment, as such terms are defined in Code Section 37-3-1.

(b) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown to the satisfaction of the court that the principal on the bond was prevented from attending because he or she was detained by reason of arrest, sentence, or confinement in a penal institution or jail in the State of Georgia, or so detained in another jurisdiction, or because he or she was involuntarily confined or detained pursuant to court order in a mental institution in the State of Georgia or in another jurisdiction. An official written notice of the holding institution in which the principal is being detained or confined shall be considered proof of the principal's detention or confinement and such notice may be sent from the holding institution by mail or delivered by hand or by facsimile machine. Upon the presentation of such written notice to the clerk of the proper court, the prosecuting

attorney, and the sheriff or other law enforcement officer having jurisdiction over the case, along with a letter of intent to pay all costs of returning the principal to the jurisdiction of the court, such notice and letter shall serve as the surety's request for a detainer or hold to be placed on the principal. Should there be a failure to place a detainer or hold within 15 days, ~~excluding Saturdays, Sundays, and legal holidays~~ ten business days of the surety's service of a detainer or hold request, and after such presentation of such notice and letter of intent to pay costs, the surety shall then be relieved of the liability for the appearance bond without further order of the court.

(c) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown to the satisfaction of the court that prior to the entry of the judgment on the forfeiture the principal on the bond is in the custody of the sheriff or other responsible law enforcement agency. An official written notice of the holding institution in which the principal is being detained or confined shall be considered proof of the principal's detention or confinement and such notice may be sent from the holding institution by mail or delivered by hand or by facsimile machine. Upon presentation of such written notice to the clerk of the proper court, the prosecuting attorney, and the sheriff or other law enforcement officer having jurisdiction over the case along with a letter of intent to pay all costs of returning the principal to the jurisdiction of the court, such notice and letter shall serve as the surety's request for a detainer or hold to be placed against the principal. Should there be a failure to place a detainer or hold within 15 days, ~~excluding Saturdays, Sundays, and legal holidays~~ ten business days of the surety's service of a detainer or hold request, and after presentation of such notice and letter of intent to pay costs, the surety shall then be relieved of the liability for the appearance bond without further order of the court.

(c.1) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown to the satisfaction of the court that the principal on the bond was prevented from attending because he or she was deported by federal authorities. An official written notice of such deportation from a federal official shall be considered proof of the principal's deportation.

(d) In cases in which ~~paragraph (3) of this subsection~~ (e) of this Code section is not applicable, on application filed within 120 days from the payment of judgment, the court shall order remission under the following conditions:

(1) Provided the bond amount has been paid within 120 days after judgment and the delay has not prevented prosecution of the principal and upon application to the court with prior notice to the prosecuting attorney of such application, said court shall direct remission of 95 percent of the bond amount remitted to the surety if the ~~surety locates the principal in the custody of the sheriff in the jurisdiction where the bond was made or in another jurisdiction causing the return of the principal to the jurisdiction where the bond was made, apprehends, surrenders, or produces the principal, if the apprehension or~~

~~surrender of the principal was substantially procured or caused by the surety, or if the location of the principal by the surety caused the adjudication of the principal in the jurisdiction in which the bond was made~~ principal is produced or otherwise appears before the court that has jurisdiction of the bond within such 120 day period. Should the surety, within two years of the principal's failure to appear, locate the principal in the custody of the sheriff in the jurisdiction where the bond was made or in another jurisdiction causing the return of the principal to the jurisdiction where the bond was made, apprehend, surrender, or produce the principal, if the apprehension or surrender of the principal is substantially procured or caused by the surety, or if the location of the principal by the surety causes the adjudication of the principal in the jurisdiction in which the bond was made, the surety shall be entitled to a refund of 50 percent of the bond amount. The application for 50 percent remission shall be filed no later than 30 days following the expiration of the two-year period following the date of judgment; or

(2) Remission shall be granted upon condition of the payment of court costs and of the expenses of returning the principal to the jurisdiction by the surety; ~~or.~~

~~(3)(e)(1)~~ (1) If, within 120 days ~~after~~ from payment of the judgment, the surety surrenders the principal to the sheriff or responsible law enforcement officer, or said surrender has been denied by the sheriff or responsible law enforcement officer, or the surety locates the principal in custody in another jurisdiction, the surety shall only be required to pay costs and 5 percent of the face amount of the bond, which amount includes all surcharges. If it is shown to the satisfaction of the court, by the presentation of competent evidence from the sheriff or the holding institution, that said surrender has been made or denied or that the principal is in custody in another jurisdiction or that said surrender has been made and that 5 percent of the face amount of the bond and all costs have been tendered to the sheriff, the court shall direct that the judgment be marked satisfied and that the writ of ~~execution, fi. fa., fieri facias~~ be canceled.

(2)(A) The court shall direct that the judgment be marked satisfied and that the writ of fieri facias be canceled, if within 120 days from payment of the judgment, the surety:

(i) Tenders an amount equal to 5 percent of the face amount of the bond and all costs to the sheriff; and

(ii) Provides, in writing, the court and the prosecuting attorney for the court that has jurisdiction of the bond with competent evidence giving probable cause to believe that the principal is located in another jurisdiction within the United States and states that it will provide for the reasonable remuneration for the rendition of the principal, as estimated by the sheriff; and

(B) The prosecuting attorney for the court that has jurisdiction of the bond:

(i) Declines, in writing, to authorize or facilitate extradition; or

101 (ii) Within ten business days of the notice provided pursuant to division (2)(A)(ii) of
102 this subsection, fails to enter the appropriate extradition approval code into the
103 computerized files maintained by the Federal Bureau of Investigation National Crime
104 Information Center thereby indicating an unwillingness to extradite the principal."

105 **SECTION 2.**

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