

House Bill 889 (AS PASSED HOUSE AND SENATE)

By: Representatives Walker of the 107th, Bearden of the 68th, Coan of the 101st, and Levitas of the 82nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 6 of Title 17 of the Official Code of Georgia Annotated,
2 relating to general provisions for bonds and recognizances, so as to limit recognizance bonds
3 for persons charged with certain crimes and entering pretrial release, pretrial intervention,
4 or pretrial diversion programs, except under certain circumstances; to change and provide
5 for a definition; to amend Code Section 17-12-22 of the Official Code of Georgia Annotated,
6 relating to the procedure for appointment of attorneys for indigent defendants in the event
7 of a public defender's conflict of interest, so as to clarify provisions relating to procedure; to
8 provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

10 Article 1 of Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to
11 general provisions for bonds and recognizances, is amended by revising subsection (i) of
12 Code Section 17-6-1, relating to where offenses are bailable and the procedure, as follows:
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14 "(i) As used in this Code section, the term 'bail' shall include the releasing of a person on
15 such person's own recognizance, except as limited by the provisions of Code Section
16 17-6-12."

SECTION 2.

17 Said article is further amended by revising Code Section 17-6-12, relating to the discretion
18 of the court to release persons charged with a crime on the person's own recognizance only,
19 as follows:

20 "17-6-12.

21 (a) As used in this Code section, the term 'bail restricted offense' means the person is
22 charged with:

23 (1) A serious violent felony as such term is defined in Code Section 17-10-6.1; or

24 (2) A felony offense of:

- 26 (A) Aggravated assault;
 27 (B) Aggravated battery;
 28 (C) Hijacking a motor vehicle
 29 (D) Aggravated stalking;
 30 (E) Child molestation;
 31 (F) Enticing a child for indecent purposes;
 32 (G) Pimping;
 33 (H) Robbery;
 34 (I) Bail jumping;
 35 (J) Escape;
 36 (K) Possession of a firearm or knife during the commission of or attempt to commit
 37 certain crimes;
 38 (L) Possession of firearms by convicted felons and first offender probationers;
 39 (M) Trafficking in cocaine, illegal drugs, marijuana, or methamphetamine;
 40 (N) Participating in criminal street gang activity;
 41 (O) Habitual violator; or
 42 (P) Driving under the influence of alcohol, drugs, or other intoxicating substances.
- 43 (b) A person charged with a bail restricted offense shall not be released on bail on his or
 44 her own recognizance for the purpose of entering a pretrial release program, a pretrial
 45 release and diversion program, or a pretrial intervention and diversion program as provided
 46 for in Article 4 of Chapter 18 of Title 15, or Article 5 of Chapter 8 of Title 42, or pursuant
 47 to Uniform Superior Court Rule 27, unless an elected magistrate, elected state or superior
 48 court judge enters a written order to the contrary specifying the reasons why such person
 49 should be released upon his or her own recognizance.
- 50 (c) Except as provided in subsection (b) of this Code section and in addition to other
 51 laws regarding the release of an accused person, the judge of any court having jurisdiction
 52 over a person charged with committing an offense against the criminal laws of this state
 53 shall have authority, in his or her sound discretion and in appropriate cases, to authorize
 54 the release of the person upon his or her own recognizance only.
- 55 (d) Upon the failure of a person released on his or her own recognizance only to appear
 56 for trial, if the release is not otherwise conditioned by the court, the court may summarily
 57 issue an order for his or her arrest which shall be enforced as in cases of forfeited bonds."

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SECTION 2A.

59 Code Section 17-12-22 of the Official Code of Georgia Annotated, relating to the procedure
60 for appointment of attorneys for indigent defendants in the event of a public defender's
61 conflict of interest, is amended by revising subsection (a) as follows:

62 "(a) The council shall establish a procedure for providing legal representation in cases
63 where the circuit public defender office has a conflict of interest. Such procedure may
64 include, but shall not be limited to, the appointment of individual counsel on a case-by-case
65 basis or the utilization of another circuit public defender office ~~when feasible~~. Whatever
66 procedure the council establishes for each circuit's conflict of interest cases shall be
67 adhered to by the circuit public defender office. It is the intent of the General Assembly
68 that the council consider the most efficient and effective system to provide legal
69 representation where the circuit public defender office has a conflict of interest."

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SECTION 3.

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