

Senate Bill 225

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

A BILL TO BE ENTITLED  
AN ACT

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

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

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

11 "17-6-72.

12 (a) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown to  
13 the satisfaction of the court by the written statement of a licensed physician that the  
14 principal on the bond was prevented from attending ~~by some~~ due to a mental or physical  
15 disability or treatment.

16 (b) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown  
17 to the satisfaction of the court that the principal on the bond was prevented from attending  
18 because he or she was detained by reason of arrest, sentence, or confinement in a penal  
19 institution or jail in the State of Georgia, or so detained in another jurisdiction, or because  
20 he or she was involuntarily confined or detained pursuant to court order in a mental  
21 institution in the State of Georgia or in another jurisdiction. An official written notice of  
22 the holding institution in which the principal is being detained or confined shall be  
23 considered proof of the principal's detention or confinement and such notice may be sent  
24 from the holding institution by mail or delivered by hand or by facsimile machine. Upon  
25 the presentation of such written notice to the clerk of the proper court, the prosecuting  
26 attorney, and the sheriff or other law enforcement officer having jurisdiction over the case,  
27 along with a letter of intent to pay all costs of returning the principal to the jurisdiction of

28 the court, such notice and letter shall serve as the surety's request for a detainer or hold to  
 29 be placed on the principal. Should there be a failure to place a detainer or hold within ~~15~~  
 30 seven days of the surety's service of a detainer or hold request, excluding Saturdays,  
 31 Sundays, and legal holidays, and after such presentation of such notice and letter of intent  
 32 to pay costs, the surety shall then be relieved of the liability for the appearance bond  
 33 without further order of the court.

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

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

53 (d) In cases in which paragraph (3) or (4) of this subsection ~~is~~ are not applicable, on  
 54 application filed within 120 days from the payment of judgment, the court shall order  
 55 remission under the following conditions:

56 (1) Provided the bond amount has been paid within 120 days after judgment and the  
 57 delay has not prevented prosecution of the principal and upon application to the court  
 58 with prior notice to the prosecuting attorney of such application, said court shall direct  
 59 remission of 95 percent of the bond amount remitted to the surety if the ~~surety locates the~~  
 60 ~~principal in the custody of the sheriff in the jurisdiction where the bond was made or in~~  
 61 ~~another jurisdiction causing the return of the principal to the jurisdiction where the bond~~  
 62 ~~was made, apprehends, surrenders, or produces the principal, if the apprehension or~~  
 63 ~~surrender of the principal was substantially procured or caused by the surety, or if the~~  
 64 ~~location of the principal by the surety caused the adjudication of the principal in the~~

65 ~~jurisdiction in which the bond was made~~ principal is produced or otherwise appears  
 66 before the court that issued the bond. Should the surety, within two years of the  
 67 principal's failure to appear, locate the principal in the custody of the sheriff in the  
 68 jurisdiction where the bond was made, ~~or in another jurisdiction causing the return of the~~  
 69 ~~principal to the jurisdiction where the bond was made, apprehend, surrender, or produce~~  
 70 ~~the principal, if the apprehension or surrender of the principal is substantially procured~~  
 71 ~~or caused by the surety, or if the location of the principal by the surety causes the~~  
 72 ~~adjudication of the principal in the jurisdiction in which the bond was made,~~ produce the  
 73 principal or otherwise make the principal appear in the court that issued the bond, the  
 74 surety shall be entitled to a refund of 50 percent of the bond amount. The application for  
 75 50 percent remission shall be filed no later than 30 days following the expiration of the  
 76 two-year period following the date of judgment;

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

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

90 (4) If, within 120 days after judgment, the surety provides the court, the prosecuting  
 91 attorney, sheriff, or other law enforcement officer of the county of jurisdiction with  
 92 competent evidence that the principal has taken flight from this state to another  
 93 jurisdiction within the United States and the surety has, in writing, expressed that it will  
 94 provide remuneration for the rendition of the principal, and the prosecuting attorney or  
 95 law enforcement authority declines to authorize or facilitate extradition, then upon  
 96 tendering an amount equal to 5 percent of the face amount of the bond and all costs to the  
 97 sheriff, the court shall direct that the judgment be marked satisfied and that the writ of  
 98 fieri facias be canceled."

99 **SECTION 2.**

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