

House Bill 510

By: Representatives Talton of the 147th, Neal of the 2nd, Randall of the 142nd, and Harrell of the 106th

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 has jurisdiction of the bond. Should the surety, within two years of
 67 the 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 has jurisdiction of the
 74 bond, the surety shall be entitled to a refund of 50 percent of the bond amount. The
 75 application for 50 percent remission shall be filed no later than 30 days following the
 76 expiration of the 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~~ from payment of the judgment, the surety surrenders the
 80 principal to the sheriff or responsible law enforcement officer, or said surrender has been
 81 denied by the sheriff or responsible law enforcement officer, or the surety locates the
 82 principal in custody in another jurisdiction, the surety shall only be required to pay costs
 83 and 5 percent of the face amount of the bond, which amount includes all surcharges. If
 84 it is shown to the satisfaction of the court, by the presentation of competent evidence
 85 from the sheriff or the holding institution, that said surrender has been made or denied or
 86 that the principal is in custody in another jurisdiction or that said surrender has been made
 87 and that 5 percent of the face amount of the bond and all costs have been tendered to the
 88 sheriff, the court shall direct that the judgment be marked satisfied and that the writ of
 89 ~~execution, fi. fa., fieri facias~~ be canceled; or

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

99

SECTION 2.

100 All laws and parts of laws in conflict with this Act are repealed.