

Senate Bill 225

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

AS PASSED SENATE

**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 **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 17-6-72, relating to conditions not warranting forfeiture of bond for failure to appear and
10 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 court due to a mental or~~
15 physical disability or the principal on the bond was receiving inpatient treatment as
16 involuntary treatment, as such terms are defined in Code Section 37-3-1.

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

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

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

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

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

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

64 ~~surrender of the principal was substantially procured or caused by the surety, or if the~~
65 ~~location of the principal by the surety caused the adjudication of the principal in the~~
66 ~~jurisdiction in which the bond was made~~ principal is produced or otherwise appears
67 before the court that has jurisdiction of the bond within such 120 day period. Should the
68 surety, within two years of the principal's failure to appear, locate the principal in the
69 custody of the sheriff in the jurisdiction where the bond was made or in another
70 jurisdiction causing the return of the principal to the jurisdiction where the bond was
71 made, apprehend, surrender, or produce the principal, if the apprehension or surrender of
72 the principal is substantially procured or caused by the surety, or if the location of the
73 principal by the surety causes the adjudication of the principal in the jurisdiction in which
74 the bond was made, the surety shall be entitled to a refund of 50 percent of the bond
75 amount. The application for 50 percent remission shall be filed no later than 30 days
76 following the expiration of the two-year period following the date of judgment; or
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)(e)(1)~~ (1) If, within 120 days after from payment of the judgment, the surety surrenders
80 the principal to the sheriff or responsible law enforcement officer, or said surrender has
81 been denied by the sheriff or responsible law enforcement officer, or the surety locates
82 the principal in custody in another jurisdiction, the surety shall only be required to pay
83 costs and 5 percent of the face amount of the bond, which amount includes all surcharges.
84 If 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.
90 (2)(A) The court shall direct that the judgment be marked satisfied and that the writ of
91 fieri facias be canceled, if within 120 days from payment of the judgement, the surety:
92 (i) Tenders an amount equal to 5 percent of the face amount of the bond and all costs
93 to the sheriff; and
94 (ii) Provides, in writing, the court, the prosecuting attorney, or the sheriff of the
95 county with jurisdiction of the bond with competent evidence of the principal's
96 location in another jurisdiction within the United States and states that it will provide
97 for the reasonable remuneration for the rendition of the principal, as estimated by the
98 sheriff; and
99 (B) The prosecuting attorney or sheriff of the county with jurisdiction of the bond:
100 (i) Declines to authorize or facilitate extradition; and

101 (ii) Fails to enter the appropriate extradition approval code into the computerized
102 files maintained by the Federal Bureau of Investigation National Crime Information
103 Center therefore indicating an unwillingness to extradite the principal."

104 **SECTION 2.**

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