

The House Committee on Judiciary Non-civil offers the following substitute to SB 225:

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 ~~days, excluding Saturdays, Sundays, and legal holidays~~ ten business days of the surety's  
 32 service of a detainer or hold request, and after such presentation of such notice and letter  
 33 of intent to pay costs, the surety shall then be relieved of the liability for the appearance  
 34 bond without 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 days, excluding Saturdays, Sundays, and legal~~  
 47 ~~holidays~~ ten business days of the surety's service of a detainer or hold request, and after  
 48 presentation of such notice and letter of intent to pay costs, the surety shall then be relieved  
 49 of the liability for 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 judgment, 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 and the prosecuting attorney for the court that has  
 95 jurisdiction of the bond with competent evidence giving probable cause to believe that  
 96 the principal is located in another jurisdiction within the United States and states that  
 97 it will provide for the reasonable remuneration for the rendition of the principal, as  
 98 estimated by the sheriff; and  
 99 (B) The prosecuting attorney for the court that has jurisdiction of the bond:  
 100 (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.