

Senate Bill 164

By: Senators Cowsert of the 46th, Ginn of the 47th, Beach of the 21st, Thompson of the 14th, Robertson of the 29th and others

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 regarding bonds and recognizances, so as to revise provisions  
3 regarding when and under what circumstances persons accused of crimes may be released  
4 on their own recognizance; to provide for the types of security for bail; to revise a definition;  
5 to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to  
9 general provisions regarding bonds and recognizances, is amended by revising paragraph (1)  
10 of subsection (f) and subsection (i) of Code Section 17-6-1, relating to where offenses  
11 bailable, procedure, schedule of bails, and appeal bonds, as follows:

12 "(f)(1) Except as provided in subsection (a) of this Code section or as otherwise provided  
13 in this subsection, the judge of any court of inquiry may by written order establish a  
14 schedule of bails, inclusive of offenses that are violations of local ordinances, and unless  
15 otherwise ordered by the judge of any court, an accused shall be released from custody  
16 upon posting bail as fixed in the schedule; provided, however, that such schedule or any  
17 local ordinance shall not mandate releasing an accused on his or her own recognizance  
18 before being brought before a judge of any court of inquiry. Nothing in this Code section  
19 shall prohibit own recognizance release for any person charged under Code Section  
20 3-3-23.1 or charged under any local ordinance not providing for a sentence of  
21 confinement in a penal institution or state, county, or local jail."

22 "(i) As used in this Code section, the term 'bail' shall ~~include releasing of a person on such~~  
23 ~~person's own recognizance, except as limited by Code Section 17-6-12~~ only include  
24 releasing of a person by the use of cash as provided in Code Sections 17-6-4 and 17-6-5,  
25 professional bondsmen as provided in Code Section 17-6-50, or property as approved by  
26 the sheriff in the county where the offense was committed."

27 **SECTION 2.**

28 Said article is further amended by revising subsection (b) of Code Section 17-6-2, relating  
 29 to acceptance of bail in misdemeanor cases and posting driver's license as collateral for bail,  
 30 as follows:

31 "(b) In all other misdemeanor cases, sheriffs and constables shall accept bail in such  
 32 ~~reasonable~~ sufficient amount as may be just and fair for any person or persons charged with  
 33 a misdemeanor, provided that the sureties tendered and offered on the bond ~~are~~ shall only  
 34 include releasing of a person by the use of cash as provided in Code Sections 17-6-4 and  
 35 17-6-5, professional bondsmen as provided in Code Section 17-6-50, or property as  
 36 approved by the sheriff in the county where the offense was committed."

37 **SECTION 3.**

38 Said article is further amended by revising subsections (b), (c), and (d) of Code Section  
 39 17-6-12, relating to discretion of court to release person charged with crime on person's own  
 40 recognizance only and effect of failure of person charged to appear for trial, as follows:

41 "(b) A person charged with a felony or a bail restricted offense shall not be released ~~on bail~~  
 42 on his or her own recognizance for any reason, including for the ~~purpose~~ purposes of  
 43 entering a pretrial release program, a pretrial release and diversion program as provided for  
 44 in Article 4 of Chapter 3 of Title 42, or a pretrial intervention and diversion program as  
 45 provided for in Article 4 of Chapter 18 of Title 15, or pursuant to Uniform Superior Court  
 46 Rule 27, unless an elected magistrate, elected state or superior court judge, or other judge  
 47 sitting by designation under the express written authority of such elected judge, enters a  
 48 written order ~~to the contrary~~ specifying the reasons why such person should be released  
 49 upon his or her own recognizance.

50 (c) Except as provided in subsection (b) of this Code section and in addition to other laws  
 51 regarding the release of an accused person, the judge of any court having jurisdiction over  
 52 a person charged with committing an offense against the criminal laws of this state,  
 53 inclusive of offenses that are violations of local ordinances, shall have authority, in his or  
 54 her sound discretion and in appropriate cases, to authorize the release of the person upon  
 55 his or her own recognizance only; provided, however, that no such recognizance release  
 56 shall occur as the result of a written order or local ordinance establishing a uniform  
 57 schedule of such release. Nothing in this Code section shall prohibit own recognizance  
 58 release for any person charged under Code Section 3-3-23.1 or charged under any local  
 59 ordinance not providing for a sentence of confinement in a penal institution or state,  
 60 county, or local jail.

61 (d) Upon the failure of a person released on his or her own recognizance to appear for trial,  
 62 if the release is not otherwise conditioned by the court, absent a finding of sufficient excuse

63 to appear, the court shall summarily issue an order for his or her arrest which shall be  
64 enforced as in cases of forfeited bonds. Any further release of such person shall not be  
65 permitted by recognizance unless an elected magistrate, elected state or superior court  
66 judge, or other judge sitting by designation under the express written authority of such  
67 elected judge enters a written order specifying the reasons why such person should be  
68 released upon his or her own recognizance."

69 **SECTION 4.**

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