

Senate Bill 402

By: Senators Robertson of the 29th, Albers of the 56th, Miller of the 49th, Unterman of the 45th, Payne of the 54th and others

**AS PASSED SENATE**

**A BILL TO BE ENTITLED**

**AN ACT**

1 To amend Article 1 of Chapter 6 of Title 17, Part 3 of Article 6 of Chapter 11 of Title 15,  
2 Chapter 10 of Title 16, Article 4 of Chapter 3 of Title 42, and Article 1 of Chapter 7 of  
3 Title 52 of the Official Code of Georgia Annotated, relating to general provisions regarding  
4 bonds and recognizances, custody and release of child, offenses against public  
5 administration, pretrial release and diversion programs, and general provisions regarding  
6 registration, operation, and sale of watercraft, respectively, so as to provide for conditions  
7 for unsecured judicial release on a person's own recognizance; to revise and provide for  
8 definitions; to provide for full-face bond requirements; to revise cross-references; to provide  
9 for related matters; to repeal conflicting laws; and for other purposes.

10 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

11 **PART I**  
12 **SECTION 1-1.**

13 Article 1 of Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to  
14 general provisions regarding bonds and recognizances, is amended by revising Code  
15 Section 17-6-12, relating to discretion of court to release person charged with crime on  
16 person's own recognizance only, as follows:

17 "17-6-12.

18 (a) As used in this Code section, the term:

19 (1) 'Bail restricted offense' means the person is charged with:

20 ~~(1)(A) An offense of: A serious violent felony as such term is defined in Code Section~~  
21 ~~17-10-6.1~~

22 (i) Murder or felony murder, as defined in Code Section 16-5-1;

23 (ii) Armed robbery, as defined in Code Section 16-8-41;

24 (iii) Kidnapping, as defined in Code Section 16-5-40;

25 (iv) Rape, as defined in Code Section 16-6-1;

26 (v) Aggravated child molestation, as defined in subsection (c) of Code  
 27 Section 16-6-4, unless subject to the provisions of paragraph (2) of subsection (d) of  
 28 Code Section 16-6-4;

29 (vi) Aggravated sodomy, as defined in Code Section 16-6-2; or

30 (vii) Aggravated sexual battery, as defined in Code Section 16-6-22.2; or

31 ~~(2)~~(B) A felony offense of:

32 ~~(A)~~(i) Aggravated assault;

33 ~~(B)~~(ii) Aggravated battery;

34 ~~(C)~~(iii) Hijacking a motor vehicle in the first degree;

35 ~~(D)~~(iv) Aggravated stalking;

36 ~~(E)~~(v) Child molestation;

37 ~~(F)~~(vi) Enticing a child for indecent purposes;

38 ~~(G)~~(vii) Pimping;

39 ~~(H)~~(viii) Robbery;

40 ~~(I)~~(ix) Bail jumping;

41 ~~(J)~~(x) Escape;

42 ~~(K)~~(xi) Possession of a firearm or knife during the commission of or attempt to  
 43 commit certain crimes;

44 ~~(L)~~(xii) Possession of firearms by convicted felons and first offender probationers;

45 ~~(M)~~(xiii) Trafficking in cocaine, illegal drugs, marijuana, or methamphetamine;

46 ~~(N)~~(xiv) Participating in criminal street gang activity;

47 ~~(O)~~(xv) Habitual violator; or

48 ~~(P)~~(xvi) Driving under the influence of alcohol, drugs, or other intoxicating  
 49 substances.

50 (2) 'Unsecured judicial release' means any release on a person's own recognizance that  
 51 does not purport a dollar amount through secured means as provided for in Code  
 52 Section 17-6-4 or 17-6-50 or property as approved by the sheriff in the county where the  
 53 offense was committed.

54 (b) An elected judge or judge sitting by designation as provided for in subsection (c) or (d)  
 55 of this Code section may issue an unsecured judicial release if:

56 (1) Such unsecured judicial release is noted on the release order; and

57 (2) Except as provided for in subsection (c) of this Code section, the person is not  
 58 charged with a bail restricted offense.

59 (c) A person charged with a bail restricted offense shall not be released on bail on his or  
 60 her own recognizance an unsecured judicial release for the purpose of entering a pretrial  
 61 release program, a pretrial release and diversion program as provided for in Article 4 of  
 62 Chapter 3 of Title 42, or a pretrial intervention and diversion program as provided for in

63 Article 4 of Chapter 18 of Title 15, or pursuant to Uniform Superior Court Rule 27, ~~unless~~  
 64 ~~an elected magistrate, elected state or superior court judge, or other judge sitting by~~  
 65 ~~designation under the express written authority of such elected judge, enters a written order~~  
 66 ~~to the contrary specifying the reasons why such person should be released upon his or her~~  
 67 ~~own recognizance.~~

68 ~~(c)~~(d) Except as provided in subsection ~~(b)~~ (c) of this Code section and in addition to other  
 69 laws regarding the release of an accused person, the judge of any court having jurisdiction  
 70 over a person charged with committing an offense against the criminal laws of this state  
 71 shall have authority, in his or her sound discretion and in appropriate cases, to authorize  
 72 the release of the person ~~upon his or her own recognizance~~ on an unsecured judicial release  
 73 only.

74 ~~(d)~~(e) Upon the failure of a person released on ~~his or her own recognizance~~ an unsecured  
 75 judicial release to appear for trial, if the release is not otherwise conditioned by the court,  
 76 absent a finding of sufficient excuse to appear, the court shall summarily issue an order for  
 77 his or her arrest which shall be enforced as in cases of forfeited bonds."

## 78 PART II

### 79 SECTION 2-1.

80 Said article is further amended in Code Section 17-6-1, relating to where offenses bailable,  
 81 procedure, schedule of bails, and appeal bonds, by adding new paragraphs to subsection (e)  
 82 and by revising subsection (i) as follows:

83 "(4) Any bond issued by an elected judge or judge sitting by designation that purports a  
 84 dollar amount shall be executed in the full-face amount of such bond through secured  
 85 means as provided for in Code Section 17-6-4 or 17-6-50 or shall be executed by use of  
 86 property as approved by the sheriff in the county where the offense was committed.

87 (5) Notwithstanding any other provision of law, nothing in this Code section shall  
 88 prohibit a duly sworn sheriff from releasing an inmate from custody in cases of medical  
 89 emergency with the consent of the judge in the county in which he or she presides."

90 "(i) As used in this Code section, the term 'bail' shall include ~~releasing~~ the release of a  
 91 person on ~~such person's own recognizance~~ an unsecured judicial release, except as limited  
 92 by Code Section 17-6-12."

93 **PART III**

94 **SECTION 3-1.**

95 Part 3 of Article 6 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,  
96 relating to custody and release of child, is amended in Code Section 15-11-507, relating to  
97 bail, by revising subsection (f) as follows:

98 "(f) For the purposes of this Code section, the term 'bail' shall include the ~~releasing release~~  
99 of a child on ~~his or her own recognizance~~ an unsecured judicial release as provided for in  
100 Code Section 17-6-12."

101 **SECTION 3-2.**

102 Chapter 10 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against  
103 public administration, is amended in Code Section 16-10-51, relating to bail jumping, by  
104 revising subsections (a) and (b) and paragraph (1) of subsection (c) as follows:

105 "(a) Any person who has been charged with or convicted of the commission of a felony  
106 under the laws of this state and has been set at liberty on bail or on ~~his own recognizance~~  
107 an unsecured judicial release as provided for in Code Section 17-6-12 upon the condition  
108 that he or she will subsequently appear at a specified time and place commits the offense  
109 of felony-bail jumping if, after actual notice to the defendant in open court or notice to the  
110 person by mailing to his or her last known address or otherwise being notified personally  
111 in writing by a court official or officer of the court, he or she fails without sufficient excuse  
112 to appear at that time and place. A person convicted of the offense of felony-bail jumping  
113 shall be punished by imprisonment for not less than one nor more than five years or by a  
114 fine of not more than \$5,000.00, or both.

115 (b) Any person who has been charged with or convicted of the commission of a  
116 misdemeanor and has been set at liberty on bail or on ~~his own recognizance~~ an unsecured  
117 judicial release as provided for in Code Section 17-6-12 upon the condition that he or she  
118 will subsequently appear at a specified time and place commits the offense of  
119 misdemeanor-bail jumping if, after actual notice to the defendant in open court or notice  
120 to the person by mailing to his or her last known address or otherwise being notified  
121 personally in writing by a court official or officer of the court, he or she fails without  
122 sufficient excuse to appear at that time and place. A person convicted of the offense of  
123 misdemeanor-bail jumping shall be guilty of a misdemeanor.

124 (c)(1) Any person who has been charged with or convicted of the commission of any of  
125 the misdemeanors listed in paragraph (2) of this subsection and has been set at liberty on  
126 bail or on ~~his or her own recognizance~~ an unsecured judicial release as provided for in  
127 Code Section 17-6-12 upon the condition that he or she will subsequently appear at a

128 specified time and place and who, after actual notice to the defendant in open court or  
 129 notice to the defendant by mailing to the defendant's last known address or otherwise  
 130 being notified personally in writing by a court official or officer of the court, leaves the  
 131 state to avoid appearing in court at such time commits the offense of out-of-state-bail  
 132 jumping. A person convicted of the offense of out-of-state-bail jumping shall be guilty  
 133 of a felony and shall be punished by imprisonment for not less than one year nor more  
 134 than five years or by a fine of not less than \$1,000.00 nor more than \$5,000.00, or both."

135 **SECTION 3-3.**

136 Article 4 of Chapter 3 of Title 42 of the Official Code of Georgia Annotated, relating to  
 137 pretrial release and diversion programs, is amended by revising Code Section 42-3-74,  
 138 relating to judicial approval for pretrial release and diversion program required, as follows:  
 139 "42-3-74.

140 No person shall be released on ~~his or her own recognizance~~ an unsecured judicial release  
 141 as provided for in Code Section 17-6-12 or approved for a pretrial release and diversion  
 142 program without first having the approval in writing of the judge of the court having  
 143 jurisdiction of the case."

144 **SECTION 3-4.**

145 Article 1 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to  
 146 general provisions regarding registration, operation, and sale of watercraft, is amended by  
 147 revising Code Section 52-7-26, relating to penalty, as follows:

148 "52-7-26.

149 (a) Except as otherwise provided in this article, any person who violates this article or any  
 150 rule or regulation promulgated hereunder shall be guilty of a misdemeanor. For purposes  
 151 of establishing criminal violations of the rules and regulations promulgated by the board  
 152 as provided in this article, the term 'rules and regulations' means those rules and regulations  
 153 of the board in force and effect on January 1, 2014.

154 (b) Notwithstanding subsection (c) of Code Section 17-6-12, the release of a person on ~~his~~  
 155 ~~or her own recognizance~~ an unsecured judicial release as provided for in Code  
 156 Section 17-6-12 for violations under Code Sections 52-7-12, 52-7-12.2, 52-7-12.3, and  
 157 52-7-12.4 shall be prohibited."

158 **PART IV**

159 **SECTION 4-1.**

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