

The House Committee on Rules offers the following substitute to SB 63:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to bonds  
2 and recognizances, so as to provide for setting of bonds and schedules of bails; to provide  
3 for release of individuals on bail for misdemeanors; to limit unsecured judicial releases; to  
4 revise surety liability; to provide for return of compensation by surety to principal; to change  
5 the fee for continuing education programs for bail recovery agents; to revise procedures for  
6 judgments on forfeitures and remission of bond funds; to revise definitions; to provide for  
7 related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to bonds and  
11 recognizances, is amended in Code Section 17-6-1, relating to when offenses bailable,  
12 procedure, schedule of bails, and appeal bonds, by revising paragraph (4) of subsection (e),  
13 paragraph (1) of subsection (f), and subsection (i) as follows:

14 "(4) A bond set for any offense by an elected judge, an appointed judge ~~filling the~~  
15 ~~vacancy of an elected judge~~, or a judge sitting by designation that purports a dollar  
16 amount shall be executed in the full-face amount of such bond through secured means as

17 provided for in Code Section 17-6-4 or 17-6-50 or shall be executed by use of property  
18 as approved by the sheriff in the county where the offense was committed."

19 "(f)(1) Except as provided in subsection (a) of this Code section or as otherwise provided  
20 in this subsection, the judge of any court of inquiry may by written order establish a  
21 schedule of bails and unless otherwise ordered by the judge of any court, an accused shall  
22 be released from custody upon posting bail as fixed in the schedule; provided, however,  
23 that no bail schedule, local standing order, or official policy shall mandate releasing an  
24 accused on unsecured judicial release as defined in Code Section 17-6-12 prior to the  
25 accused appearing before a judge of any court of inquiry. Nothing in this paragraph shall  
26 prohibit unsecured judicial release for any person charged under any provision of local  
27 or state law not providing for a sentence of confinement in a penal institution or state,  
28 county, or local jail."

29 "(i) As used in this Code section, the term 'bail' shall only include the release of a person  
30 on an unsecured judicial release, except as limited by Code Section 17-6-12 by the use of  
31 secured means as provided in Code Sections 17-6-4 and 17-6-5, professional bondsmen as  
32 provided in Code Section 17-6-50, or property as approved by the sheriff in the county  
33 where the offense was committed."

## 34 SECTION 2.

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

38 "(b) In all other misdemeanor cases, sheriffs and constables shall accept bail in such  
39 ~~reasonable~~ sufficient amount as may be just and fair for any person or persons charged with  
40 a misdemeanor, provided that the sureties tendered and offered on the bond ~~are~~ shall only  
41 include the release of a person by the use of secured means as provided in Code

42 Sections 17-6-4 and 17-6-5, professional bondsmen as provided in Code Section 17-6-50,  
 43 or property as approved by the sheriff in the county where the offense was committed."

44 **SECTION 3.**

45 Said chapter is further amended by revising Code Section 17-6-12, relating to unsecured  
 46 judicial release, requirement, and effect of failure of person charged to appear for trial, as  
 47 follows:

48 "17-6-12.

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

50 (1) 'Bail restricted offense' means the person is charged with an offense of:

51 ~~(A) An offense of:~~

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

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

54 ~~(iii)(C)~~ Kidnapping, as defined in Code Section 16-5-40;

55 ~~(iv)(D)~~ Rape, as defined in Code Section 16-6-1;

56 ~~(v)(E)~~ Aggravated child molestation, as defined in subsection (c) of Code  
 57 Section 16-6-4, unless subject to the provisions of paragraph (2) of subsection (d) of  
 58 Code Section 16-6-4;

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

60 ~~(vii)(G)~~ Aggravated sexual battery, as defined in Code Section 16-6-22.2;

61 ~~(B) A felony offense of:~~

62 ~~(i)(H)~~ Aggravated assault;

63 ~~(ii)(I)~~ Aggravated battery;

64 ~~(iii)(J)~~ Hijacking a motor vehicle in the first degree;

65 ~~(iv)(K)~~ Aggravated stalking;

66 ~~(v)(L)~~ Child molestation;

67 ~~(vi)(M)~~ Enticing a child for indecent purposes;

- 68           ~~(vii)~~(N) Pimping;
- 69           ~~(viii)~~(O) Robbery;
- 70           ~~(viii.1)~~(P) Burglary;
- 71           ~~(ix)~~(Q) Bail jumping;
- 72           ~~(x)~~(R) Escape;
- 73           ~~(xi)~~(S) Possession of a firearm or knife during the commission of or attempt to commit  
74 certain crimes;
- 75           ~~(xii)~~(T) Possession of firearms by convicted felons and first offender probationers;
- 76           ~~(xiii)~~(U) Trafficking in cocaine, illegal drugs, marijuana, or methamphetamine;
- 77           ~~(xiv)~~(V) Participating in criminal ~~street~~ gang activity, in violation of Code  
78 Section 16-15-4;
- 79           ~~(xv)~~(W) Habitual violator;
- 80           ~~(xvi)~~(X) Driving under the influence of alcohol, drugs, or other intoxicating  
81 substances;
- 82           ~~(xvii)~~(Y) Entering an automobile or other mobile vehicle with intent to commit theft  
83 or felony, as defined in Code Section 16-8-18; ~~or~~
- 84           ~~(xviii)~~(Z) Stalking; ~~or~~
- 85           ~~(C)~~ A misdemeanor offense of:
- 86           ~~(i)~~(AA) Crimes involving family violence, as defined in Code Section 19-13-1; ~~or~~  
87           ~~(ii)~~ Stalking;
- 88           ~~(BB)~~ Reckless stunt driving, as described in Code Section 40-6-390.1, provided that  
89 such offense is the person's second or subsequent offense;
- 90           ~~(CC)~~ Promoting or organizing an exhibition of drag races or laying drags, as described  
91 in Code Section 16-11-43.1;
- 92           ~~(DD)~~ Laying drags, as defined in Code Section 40-6-251;
- 93           ~~(EE)~~ Reckless driving, as described in Code Section 40-6-390, provided that such  
94 offense is the person's second or subsequent offense;

95 (FF) Fleeing or attempting to elude a police officer, as described in Code  
96 Section 40-6-395;  
97 (GG) Obstruction of a law enforcement officer, as described in Code Section 16-10-29;  
98 (HH) Criminal trespass, as described in Code Section 16-7-21, provided that such  
99 offense is the person's second or subsequent offense;  
100 (II) Theft by taking, as described in Code Section 16-8-2, provided that such offense  
101 is the person's second or subsequent offense;  
102 (JJ) Theft by deception, as described in Code Section 16-8-3;  
103 (KK) Theft by extortion, as described in Code Section 16-8-16;  
104 (LL) Destruction, removal, concealment, encumbrance, or transfer of property subject  
105 to security interest, as described in Code Section 16-9-51;  
106 (MM) Bribery, as described in Code Section 16-10-2;  
107 (NN) Purchase, possession, manufacture, distribution, or sale of controlled substances  
108 or marijuana, as described in Code Section 16-13-30;  
109 (OO) Forgery, as described in Code Section 16-9-1;  
110 (PP) Exploitation and intimidation of disabled adults, elder persons, and residents or  
111 obstruction of an investigation, as described in Code Section 16-5-102;  
112 (QQ) Battery, as described in Code Section 16-5-23.1;  
113 (RR) Voluntary manslaughter, as described in Code Section 16-5-2;  
114 (SS) Cruelty to animals, as described in Code Section 16-12-4;  
115 (TT) Violation of oath by a public officer, as described in Code Section 16-10-1;  
116 (UU) Financial transaction card fraud, as described in Code Section 16-9-33;  
117 (VV) Financial transaction card theft, as described in Code Section 16-9-31;  
118 (WW) Identity fraud, as described in Code Section 16-9-121;  
119 (XX) Racketeering and conspiracy, as described in Code Section 16-14-4;  
120 (YY) Trafficking of persons for labor or sexual servitude, as described in Code  
121 Section 16-5-46;

- 122 (ZZ) Failure to appear, as described in Code Section 40-13-63, provided that such  
 123 offense is the person's second or subsequent offense;  
 124 (AAA) Domestic terrorism, as described in Code Section 16-11-221;  
 125 (BBB) Riot, as described in Code Section 16-11-30;  
 126 (CCC) Inciting to riot, as described in Code Section 16-11-31;  
 127 (DDD) Unlawful assembly, as described in Code Section 16-11-33; or  
 128 (EEE) Possession of tools for commission of a crime, as described in Code  
 129 Section 16-7-20.
- 130 (2) 'Unsecured judicial release' means any release that does not purport a dollar amount  
 131 through secured means as provided for in Code Section 17-6-4 or 17-6-50 or property as  
 132 approved by the sheriff in the county where the offense was committed and that is:
- 133 (A) On a person's own recognizance; or  
 134 (B) For the purpose of entering a pretrial release program, a pretrial release and  
 135 diversion program as provided for in Article 4 of Chapter 3 of Title 42, or a pretrial  
 136 intervention and diversion program as provided for in Article 4 of Chapter 18 of  
 137 Title 15, or pursuant to Uniform Superior Court Rule 27.
- 138 (b) An elected judge, an appointed judge ~~filling the vacancy of an elected judge~~, or a judge  
 139 sitting by designation may issue an unsecured judicial release if:
- 140 ~~(1) Such such~~ unsecured judicial release is noted on the release order; ~~and~~  
 141 ~~(2) The person is not charged with a bail restricted offense.~~
- 142 (c) Except as provided in subsection (b) of this Code section and in addition to other laws  
 143 regarding the release of an accused person, the judge of any court having jurisdiction over  
 144 a person charged with committing an offense against the criminal laws of this state shall  
 145 have authority, in his or her sound discretion and in appropriate cases, to authorize the  
 146 release of the person on an unsecured judicial release only.
- 147 (d) Upon the failure of a person released on an unsecured judicial release to appear for  
 148 trial, if the release is not otherwise conditioned by the court, absent a finding of sufficient

149 excuse to appear, the court shall summarily issue an order for his or her arrest which shall  
150 be enforced as in cases of forfeited bonds.

151 (e) No person charged with a bail restricted offense shall be eligible for release by any  
152 judge on an unsecured judicial release. Such persons charged with a bail restricted offense  
153 shall only be eligible for release through the use of secured means as provided in Code  
154 Sections 17-6-4 and 17-6-5, professional bondsmen as provided in Code Section 17-6-50,  
155 or property as approved by the sheriff in the county where the offense was committed.

156 (f) No person sentenced pursuant to subsection (b) or (c) of Code Section 17-10-7 shall be  
157 eligible for release by any judge on an unsecured judicial release. Such persons shall only  
158 be eligible for release through the use of secured means as provided in Code Sections  
159 17-6-4 and 17-6-5, professional bondsmen as provided in Code Section 17-6-50, or  
160 property as approved by the sheriff in the county where the offense was committed.

161 (g) Any person arrested for any offense who has previously been convicted for any felony  
162 within the preceding seven years shall not be eligible for release by any judge on an  
163 unsecured judicial release. Such person shall only be eligible for release through the use  
164 of secured means as provided in Code Sections 17-6-4 and 17-6-5, professional bondsmen  
165 as provided in Code Section 17-6-50, or property as approved by the sheriff in the county  
166 where the offense was committed."

167 **SECTION 4.**

168 Said chapter is further amended in Code Section 17-6-31, relating to surrender of principal  
169 by surety, forfeiture of bond, and death of principal, by revising subsections (a) and (d) as  
170 follows:

171 "(a) When the court is not in session, a surety on a bond may surrender the surety's  
172 principal to the sheriff or to the responsible law enforcement officer of the jurisdiction in  
173 which the case is pending in order to be released from liability. If the sheriff or the

174 responsible law enforcement officer of the jurisdiction refuses such surrender, the surety  
 175 shall be released from liability."

176 "(d)(1) Furthermore, the surety shall be released from liability if, prior to entry of  
 177 judgment, there is:

178 (A) A deferred sentence;

179 (B) A presentence investigation;

180 (C) ~~A court ordered~~ Entry into a pretrial intervention and diversion program;

181 (D) ~~A court ordered~~ Entry into an educational and rehabilitation program;

182 (E) A fine;

183 (F) A dead docket; or

184 (G) Death of the principal;

185 (H) Participation in an accountability court; or

186 (I) Entry into a pretrial release program.

187 (2) Furthermore, the surety may be released from liability at the discretion of the court  
 188 if:

189 (A) The principal used a false name when he or she was bound over and committed to  
 190 jail or a correctional institution and was subsequently released from such facility unless  
 191 the surety knew or should have known that the principal used a false name; and

192 (B) The surety shows to the satisfaction of the court that he or she acted with due  
 193 diligence and used all practical means to secure the attendance of the principal before  
 194 the court."

195 **SECTION 5.**

196 Said chapter is further amended in Code Section 17-6-56.1, relating to continuing education  
 197 programs for bail recovery agents, fee, annual requirement, and certificate of completion, by  
 198 revising subsection (b) as follows:

199 "(b) The fee for continuing education programs for bail recovery agents shall not exceed  
200 ~~\$125.00~~ \$250.00 annually."

201 **SECTION 6.**

202 Said chapter is further amended in Code Section 17-6-72, relating to conditions not  
203 warranting forfeiture of bond for failure to appear and remission of forfeiture, by revising  
204 subsections (c.1), (d), and (e) as follows:

205 ~~"(c.1) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown  
206 to the satisfaction of the court that the principal on the bond was prevented from attending  
207 because he or she was deported or removed from the United States by federal authorities.  
208 Official documentation from a federal official or agency shall be considered proof of the  
209 principal's deportation or removal. Such documentation may be delivered by mail or  
210 e-mail or delivered by hand or by facsimile machine.~~

211 (d) In cases in which subsection (e) of this Code section is not applicable, the court shall  
212 order remission under the following conditions:

213 (1) Provided the bond amount has been paid within ~~120~~ 150 days after entry of the  
214 judgment and the delay has not prevented prosecution of the principal and upon  
215 application filed within ~~120~~ 150 days from the payment of judgment with prior notice to  
216 the prosecuting attorney of such application, said court shall direct remission of 95  
217 percent of the bond amount remitted to the surety if the principal is produced or otherwise  
218 appears before the court that has jurisdiction of the bond within such ~~120~~ 150 day period  
219 following payment of the judgment;

220 (2) Provided the bond amount has been paid within ~~120~~ 150 days after the entry of  
221 judgment and the delay has not prevented prosecution of the principal, should the surety,  
222 within two years of the principal's failure to appear, locate the principal in the custody of  
223 the sheriff in the jurisdiction where the bond was made or in another jurisdiction causing  
224 the return of the principal to the jurisdiction where the bond was made, apprehend,

225 surrender, or produce the principal, if the apprehension or surrender of the principal is  
226 substantially procured or caused by the surety, or if the location of the principal by the  
227 surety causes the adjudication of the principal in the jurisdiction in which the bond was  
228 made, the surety shall be entitled to a refund of 50 percent of the bond amount. The  
229 application for 50 percent remission shall be filed no later than 30 days following the  
230 expiration of the two-year period following the date of judgment; or

231 (3) Remission shall be granted upon condition of the payment of court costs and of the  
232 expenses of returning the principal to the jurisdiction by the surety.

233 (e)(1) If, within ~~120~~ 150 days from entry of the judgment, the surety surrenders the  
234 principal to the sheriff or responsible law enforcement officer, or said surrender has been  
235 denied by the sheriff or responsible law enforcement officer, or the surety locates the  
236 principal in custody in another jurisdiction, the surety shall only be required to pay costs  
237 and 5 percent of the face amount of the bond, which amount includes all surcharges. If  
238 it is shown to the satisfaction of the court, by the presentation of competent evidence  
239 from the sheriff or the holding institution, that said surrender has been made or denied or  
240 that the principal is in custody in another jurisdiction or that said surrender has been made  
241 and that 5 percent of the face amount of the bond and all costs have been tendered to the  
242 sheriff, the court shall direct that the judgment be marked satisfied and that the writ of  
243 fieri facias be canceled.

244 (2)(A) The court shall direct that the judgment be marked satisfied and that the writ of  
245 fieri facias be canceled, if within ~~120~~ 150 days from entry of the judgment, the surety:

246 (i) Tenders an amount equal to 5 percent of the face amount of the bond and all costs  
247 to the sheriff; and

248 (ii) Provides, in writing, the court and the prosecuting attorney for the court that has  
249 jurisdiction of the bond with competent evidence giving probable cause to believe that  
250 the principal is located in another jurisdiction within the United States and states that

251 it will provide for the reasonable remuneration for the rendition of the principal, as  
252 estimated by the sheriff; and

253 (B) The prosecuting attorney for the court that has jurisdiction of the bond:

254 (i) Declines, in writing, to authorize or facilitate extradition; or

255 (ii) Within ten business days of the notice provided pursuant to division (2)(A)(ii) of  
256 this subsection, fails to enter the appropriate extradition approval code into the  
257 computerized files maintained by the Federal Bureau of Investigation National Crime  
258 Information Center, thereby indicating an unwillingness to extradite the principal."

259 **SECTION 7.**

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