

House Bill 1131 (AS PASSED HOUSE AND SENATE)

By: Representatives Hong of the 103rd, Smith of the 18th, Sainz of the 180th, Reeves of the 99th, and Scoggins of the 14th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure,
2 so as to provide for personal service of process for notice of a warrant application hearing;
3 to provide for related matters; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 **SECTION 1.**

6 Title 17 of the Official Code of Georgia Annotated, relating criminal procedure, is amended
7 by revising paragraph (2) of subsection (b) of Code Section 17-4-40, relating to persons who
8 may issue warrants for arrest of offenders against penal laws, warrants requested by others,
9 and persons who may issue warrants for arrest of peace or law enforcement officers, DFCS
10 case managers, or school teachers or administrators, as follows:

11 "(2) Except as otherwise provided in paragraph (6) of this subsection, a warrant
12 application hearing shall be conducted only after attempting to notify the person whose
13 arrest is sought by personal service or by any means approved by the judge or other
14 officer which is reasonably calculated to apprise such person of the date, time, and
15 location of the hearing."

16 **SECTION 2.**

17 Said title is further amended by revising subsection (c) of Code Section 17-4-41, relating to
18 contents of affidavits made or warrants issued for arrest of penal offenders, as follows:

19 "(c) It is the intent of these requirements that the accused person shall be informed of the
20 specific charge against him or her and of all basic pertinent particulars pertaining thereto
21 by personal service."

22 **SECTION 3.**

23 Said title is further amended by revising Code Section 17-6-15, relating to necessity for
24 commitment where bail tendered and accepted, opportunity for bail, receipt of bail after
25 commitment and imprisonment, and limitations on cash bonds, as follows:

26 "17-6-15.

27 (a) After arrest, if bail is tendered and accepted, no regular commitment need be entered,
28 but a simple memorandum of the fact of bail being taken shall be sufficient.

29 (b)(1) A reasonable opportunity shall be allowed the accused person to give bail; and,
30 even after commitment and imprisonment, the committing court may order the accused
31 person brought before it to receive bail. No person shall be imprisoned under a felony
32 commitment when bail has been fixed, if the person tenders and offers to give bond in the
33 amount fixed, with sureties acceptable to the sheriff of the county in which the alleged
34 offense occurred; provided, however, the sheriff shall publish and make available written
35 rules and regulations defining acceptable sureties and prescribing under what conditions
36 sureties may be accepted. If the sheriff determines that a professional bonding company
37 is an acceptable surety, the rules and regulations shall require, but shall not be limited to,
38 the following:

39 (A) Complete documentation showing the composition of the company to be an
40 individual, a trust, or a group of individuals, whether or not formed as a partnership or

- 41 other legal entity, or a corporation or a combination of individuals, trusts, and
42 corporations;
- 43 (B) Complete documentation for all employees, agents, or individuals authorized to
44 sign or act on behalf of the bonding company;
- 45 (C) Complete documentation showing that the company holds a valid business license
46 in the jurisdiction where bonds will be written;
- 47 (D) Fingerprints and background checks of every individual who acts as a professional
48 bondsperson as defined in Code Section 17-6-50 for the professional bonding company
49 seeking approval;
- 50 (E) Establishment of a cash escrow account or other form of collateral as follows:
- 51 (i) For any professional bonding company that is new to the county or that has
52 operated continuously in the county for less than 18 months, in an amount and upon
53 terms and conditions as determined and approved by the sheriff;
- 54 (ii) Once a professional bonding company has operated continuously for 18 months
55 or longer in the county, then any such cash escrow account or other form of collateral
56 shall not exceed 5 percent of the current outstanding bail bond liability of the
57 professional bonding company and such cash escrow account shall not be required to
58 have on deposit an amount in excess of ~~\$1,000,000.00~~\$500,000.00; and
- 59 (iii) No professional bonding company shall purchase an insurance policy in lieu of
60 establishing a cash escrow account or posting other collateral; provided, however, that
61 any professional bonding company which was using an insurance policy as collateral
62 as of December 31, 2013, may continue to do so at the discretion of the sheriff.
- 63 (F) Establishment of application, approval, and reporting procedures for the
64 professional bonding company deemed appropriate by the sheriff which satisfy all rules
65 and regulations required by the laws of this state and the rules and regulations
66 established by the sheriff;

67 (G) Applicable fees to be paid by the applicant to cover the cost of copying the rules
68 and regulations and processing and investigating all applications and all other costs
69 relating thereto; or

70 (H) Additional criteria and requirements for approving and regulating bonding
71 companies to be determined at the discretion of the sheriff.

72 (2) This Code section shall not be construed to require a sheriff to accept a professional
73 bonding company or bondsperson as a surety.

74 (3) This Code section shall not be construed to prevent the posting of real property bonds
75 and the sheriff may not prohibit the posting of property bonds. Additional requirements
76 for the use of real property may be determined at the discretion of the sheriff. The sheriff
77 shall not prohibit a nonresident of the county from posting a real property bond if such
78 real property is located in the county in which it is offered as bond and if such property
79 has sufficient unencumbered equity to satisfy the sheriff's posted rules and regulations
80 as to acceptable sureties.

81 (4) No more than three cash bonds may be posted per year by any individual,
82 corporation, organization, charity, nonprofit corporation, or group in any jurisdiction.
83 Every individual, corporation, organization, charity, nonprofit corporation, or group that
84 purports to be a charitable bail fund with the purpose of soliciting donations to use for
85 securing the release of accused persons shall be required to submit to the same
86 requirements as any professional surety company, including, without limitation, the
87 requirements set forth in paragraph (1) of this subsection and Code Sections 17-6-50,
88 17-6-50.1, and 17-6-51. This paragraph shall not apply to a natural person posting a cash
89 bond on behalf of an immediate family member.

90 (5) Prosecuting attorneys and the Attorney General shall have concurrent authority to
91 prosecute any violation of paragraph (4) of this subsection.

92 (6) Any person or entity who violates any part of paragraph (4) of this subsection shall
93 be guilty of a misdemeanor.

94 (c) This Code section shall not abrogate or repeal the common-law authority of the judge
95 having jurisdiction."

96 **SECTION 4.**

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