

26 | 903.045 Nature of criminal surety bail bonds.—It is the
27 | public policy of this state and the intent of the Legislature
28 | that a criminal surety bail bond, executed by a bail bond agent
29 | licensed pursuant to chapter 648 in connection with the pretrial
30 | or appellate release of a criminal defendant, shall be construed
31 | as a commitment by and an obligation upon the bail bond agent to
32 | ensure that the defendant appears at all ~~subsequent~~ criminal
33 | proceedings for which the surety bond was posted. A person,
34 | corporation, company, or other entity that charges a fee or
35 | premium to facilitate the release of an accused defendant from
36 | jail through the posting of a cash or surety bail bond must be
37 | licensed pursuant to chapter 648 and otherwise fulfills all
38 | ~~conditions of the bond. The failure of a defendant to appear at~~
39 | ~~any subsequent criminal proceeding or the breach by the~~
40 | ~~defendant of any other condition of the bond constitutes a~~
41 | ~~breach by the bail bond agent of this commitment and obligation.~~

42 | Section 2. Subsections (2), (5), (6), (7), and (8) of
43 | section 903.26, Florida Statutes, are amended to read:

44 | 903.26 Forfeiture of the bond; when and how directed;
45 | discharge; how and when made; effect of payment.—

46 | (2) (a) If there is a failure of the defendant to appear as
47 | required ~~breach of the bond~~, the court shall declare the bond
48 | and any bonds or money deposited as bail forfeited. The clerk of
49 | the court shall mail or electronically transmit a notice to the
50 | surety agent and surety company within 5 days after the

51 forfeiture. A certificate signed by the clerk of the court or
52 the clerk's designee, certifying that the notice required herein
53 was mailed or electronically transmitted on a specified date and
54 accompanied by a copy of the required notice, shall constitute
55 sufficient proof that such mailing or electronic transmission
56 was properly accomplished as indicated therein. If such mailing
57 or electronic transmission was properly accomplished as
58 evidenced by such certificate, the failure of the surety agent,
59 of a company, or of a defendant to receive such notice shall not
60 constitute a defense to such forfeiture and shall not be grounds
61 for discharge, remission, reduction, set aside, or continuance
62 of such forfeiture. The forfeiture shall be paid within 60 days
63 after ~~of~~ the date the notice was mailed or electronically
64 transmitted.

65 (b) Failure of the defendant to appear at the time, date,
66 and place of required appearance shall result in forfeiture of
67 the bond. Such forfeiture shall be automatically entered by the
68 clerk upon such failure to appear, and the clerk shall follow
69 the procedures ~~outlined~~ in paragraph (a). However, the court may
70 determine, in its discretion, in the interest of justice, that
71 an appearance by the defendant on the same day as required does
72 not warrant forfeiture of the bond; and the court may direct the
73 clerk to set aside any such forfeiture which may have been
74 entered. Any appearance by the defendant later than the required
75 day constitutes forfeiture of the bond, and the court shall not

76 preclude entry of such forfeiture by the clerk.

77 (c) If there is a forfeiture ~~breach~~ of the bond, the clerk
 78 shall provide, upon request, a certified copy of the warrant or
 79 capias to the bail bond agent or surety company.

80 (5) The court shall discharge a forfeiture within 60 days
 81 upon:

82 (a) A determination that it was impossible for the
 83 defendant to appear as required or within 60 days after the date
 84 of the required appearance due to circumstances beyond the
 85 defendant's control. The potential adverse economic consequences
 86 of appearing as required may ~~shall~~ not be considered as
 87 constituting a ground for such a determination;

88 (b) A determination that, at the time of the required
 89 appearance or within 60 days after the date of the required
 90 appearance, the defendant was ~~adjudicated insane and~~ confined in
 91 an institution or hospital; ~~or~~ was confined in any county,
 92 state, federal, or immigration detention facility; was deported;
 93 or is deceased ~~a jail or prison;~~

94 (c) Surrender or arrest of the defendant if the delay has
 95 not thwarted the proper prosecution of the defendant. If the
 96 forfeiture has been before discharge, the court shall direct
 97 remission of the forfeiture. The court shall condition a
 98 discharge or remission on the payment of costs and the expenses
 99 incurred by an official in returning the defendant to the
 100 jurisdiction of the court; or

101 (d) A determination that the state is unwilling to seek
102 extradition of the fugitive defendant within 10 days after a
103 request by the surety to do so, and contingent upon the surety
104 agent's consent to pay all transportation costs incurred by an
105 official in returning the defendant to the jurisdiction of the
106 court, up to the penal amount of the bond.

107 ~~(6) The discharge of a forfeiture shall not be ordered for~~
108 ~~any reason other than as specified herein.~~

109 (6)~~(7)~~ The payment by a surety of a forfeiture under ~~the~~
110 ~~provisions of~~ this law shall have the same effect on the bond as
111 payment of a judgment.

112 (7)~~(8)~~ If the defendant is arrested and returned to the
113 county of jurisdiction of the court or has posted a new bond for
114 the case at issue before ~~prior to~~ judgment, the clerk, upon
115 affirmation by the sheriff or the chief correctional officer,
116 shall, without further hearing or order of the court, discharge
117 the forfeiture of the bond. However, if the surety agent fails
118 to pay the costs and expenses incurred in returning the
119 defendant to the county of jurisdiction, the clerk shall not
120 discharge the forfeiture of the bond. If the surety agent and
121 the sheriff fail to agree on the amount of said costs, then the
122 court, after notice to the sheriff and the state attorney, shall
123 determine the amount of the costs.

124 Section 3. Subsections (2), (3), (4), (5), and (6) of
125 section 903.28, Florida Statutes, are amended to read:

126 903.28 Remission of forfeiture; conditions.—

127 (2) If the defendant surrenders or is apprehended within
128 90 days after forfeiture, the court, on motion at a hearing upon
129 notice having been given to the clerk of the circuit court and
130 the state attorney as required in subsection (8), shall direct
131 remission of ~~up to, but not more than,~~ 100 percent of a
132 forfeiture if the surety apprehended and surrendered the
133 defendant or if the apprehension or surrender of the defendant
134 was substantially procured or caused by the surety, or the
135 surety has substantially attempted to procure or cause the
136 apprehension or surrender of the defendant, and the delay has
137 not thwarted the proper prosecution of the defendant. In
138 addition, remission shall be granted when the surety did not
139 substantially participate or attempt to participate in the
140 apprehension or surrender of the defendant when the costs of
141 returning the defendant to the jurisdiction of the court have
142 been deducted from the remission and when the delay has not
143 thwarted the proper prosecution of the defendant.

144 (3) If the defendant surrenders or is apprehended within
145 180 days after forfeiture, the court, on motion at a hearing
146 upon notice having been given to the clerk of the circuit court
147 and the state attorney as required in subsection (8), shall
148 direct remission of ~~up to, but not more than,~~ 95 percent of a
149 forfeiture if the surety apprehended and surrendered the
150 defendant or if the apprehension or surrender of the defendant

151 was substantially procured or caused by the surety, or the
152 surety has substantially attempted to procure or cause the
153 apprehension or surrender of the defendant, and the delay has
154 not thwarted the proper prosecution of the defendant. In
155 addition, remission shall be granted when the surety did not
156 substantially participate or attempt to participate in the
157 apprehension or surrender of the defendant when the costs of
158 returning the defendant to the jurisdiction of the court have
159 been deducted from the remission and when the delay has not
160 thwarted the proper prosecution of the defendant.

161 (4) If the defendant surrenders or is apprehended within
162 270 days after forfeiture, the court, on motion at a hearing
163 upon notice having been given to the clerk of the circuit court
164 and the state attorney as required in subsection (8), shall
165 direct remission of ~~up to, but not more than,~~ 90 percent of a
166 forfeiture if the surety apprehended and surrendered the
167 defendant or if the apprehension or surrender of the defendant
168 was substantially procured or caused by the surety, or the
169 surety has substantially attempted to procure or cause the
170 apprehension or surrender of the defendant, and the delay has
171 not thwarted the proper prosecution of the defendant. In
172 addition, remission shall be granted when the surety did not
173 substantially participate or attempt to participate in the
174 apprehension or surrender of the defendant when the costs of
175 returning the defendant to the jurisdiction of the court have

176 | been deducted from the remission and when the delay has not
177 | thwarted the proper prosecution of the defendant.

178 | (5) If the defendant surrenders or is apprehended within 1
179 | year after forfeiture, the court, on motion at a hearing upon
180 | notice having been given to the clerk of the circuit court and
181 | the state attorney as required in subsection (8), shall direct
182 | remission of ~~up to, but not more than,~~ 85 percent of a
183 | forfeiture if the surety apprehended and surrendered the
184 | defendant or if the apprehension or surrender of the defendant
185 | was substantially procured or caused by the surety, or the
186 | surety has substantially attempted to procure or cause the
187 | apprehension or surrender of the defendant, and the delay has
188 | not thwarted the proper prosecution of the defendant. In
189 | addition, remission shall be granted when the surety did not
190 | substantially participate or attempt to participate in the
191 | apprehension or surrender of the defendant when the costs of
192 | returning the defendant to the jurisdiction of the court have
193 | been deducted from the remission and when the delay has not
194 | thwarted the proper prosecution of the defendant.

195 | (6) If the defendant surrenders or is apprehended within 2
196 | years after forfeiture, the court, on motion at a hearing upon
197 | notice having been given to the clerk of the circuit court and
198 | the state attorney as required in subsection (8), shall direct
199 | remission of ~~up to, but not more than,~~ 50 percent of a
200 | forfeiture if the surety apprehended and surrendered the

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201 defendant or if the apprehension or surrender of the defendant
202 was substantially procured or caused by the surety, or the
203 surety has substantially attempted to procure or cause the
204 apprehension or surrender of the defendant, and the delay has
205 not thwarted the proper prosecution of the defendant. In
206 addition, remission shall be granted when the surety did not
207 substantially participate or attempt to participate in the
208 apprehension or surrender of the defendant when the costs of
209 returning the defendant to the jurisdiction of the court have
210 been deducted from the remission and when the delay has not
211 thwarted the proper prosecution of the defendant.

212 Section 4. Section 903.31, Florida Statutes, is amended to
213 read:

214 903.31 Canceling the bond.—

215 (1) Within 10 business days after the conditions of a bond
216 have been satisfied or the forfeiture discharged or remitted,
217 the court shall order the bond canceled and, if the surety has
218 attached a certificate of cancellation to the original bond, the
219 clerk of the court shall mail or electronically furnish an
220 executed certificate of cancellation to the surety without cost.
221 An adjudication of guilt or innocence, an acquittal, if a period
222 of 36 months has passed since the original bond was posted, or a
223 withholding of an adjudication of guilt shall satisfy the
224 conditions of the bond. The original appearance bond shall
225 expire 36 months after such bond has been posted for the release

226 of the defendant from custody. This subsection does not apply to
227 cases in which a bond has been declared forfeited before the 36-
228 month expiration.

229 (2) The original appearance bond does not guarantee a
230 deferred sentence; sentences, appearance during or after a
231 presentence investigation;; appearance during or after appeals;;
232 conduct during or appearance after admission to a pretrial
233 intervention program;; placement in a court-ordered program,
234 including a residential mental health facility; payment of
235 fines;; or attendance at educational or rehabilitation
236 facilities the court otherwise provides in the judgment. If the
237 original appearance bond has been forfeited or revoked, the bond
238 shall not be reinstated without approval from the surety on the
239 original bond.

240 (3) If ~~In any case where~~ no formal charges are ~~have been~~
241 brought against the defendant within 365 days after arrest, the
242 court shall order the bond canceled unless good cause is shown
243 by the state.

244 Section 5. This act shall take effect July 1, 2017.