

By Senator Clary

7-1021A-99

See HB

1                                   A bill to be entitled  
2           An act relating to bail bonds; amending ss.  
3           648.385 and 648.386, F.S.; revising certain  
4           continuing education requirements; amending s.  
5           903.21, F.S.; providing a definition; amending  
6           s. 903.035, F.S.; specifying that information  
7           provided by any person relating to application  
8           for bail must be accurate, truthful, and  
9           complete; amending s. 903.26, F.S.; requiring  
10          discharge of a forfeiture with a time certain;  
11          providing an additional criterion for discharge  
12          of a forfeiture; requiring a clerk of court to  
13          set aside a forfeiture and discharge a bond  
14          under certain circumstances; amending s.  
15          903.27, F.S.; providing for tolling certain  
16          forfeiture operations under certain  
17          circumstances; amending s. 903.28, F.S.;  
18          requiring remissions to be granted under  
19          certain circumstances; amending s. 903.31,  
20          F.S.; providing for expiration of certain bonds  
21          under certain circumstances; specifying  
22          nonapplication when a bond is declared  
23          forfeited; prohibiting reinstatement of  
24          original appearance bonds under certain  
25          circumstances; providing an effective date.

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27 Be It Enacted by the Legislature of the State of Florida:

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29           Section 1. Paragraphs (a) and (c) of subsection (2) of  
30 section 648.385, Florida Statutes, are amended to read:

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1           648.385 Continuing education required; application;  
2 exceptions; requirements; penalties.--

3           (2)(a) For compliance dates beginning in January 1997  
4 and thereafter, each person subject to the provisions of this  
5 chapter must complete a minimum of 7 ~~14~~ hours of continuing  
6 education courses each year ~~every 2 years~~ in courses approved  
7 by the department. Compliance with continuing education  
8 requirements is a condition precedent to the issuance,  
9 continuation, or renewal of any appointment subject to the  
10 provisions of this chapter.

11           (c) For good cause shown, the department may grant an  
12 extension of time during which the requirements imposed by  
13 this section may be completed, but such extension of time may  
14 not exceed 6 months ~~1 year~~.

15           Section 2. Paragraph (a) of subsection (4) of section  
16 648.386, Florida Statutes, is amended to read:

17           648.386 Qualifications for prelicensing and continuing  
18 education schools and instructors.--

19           (4) INSTRUCTOR'S DUTIES AND QUALIFICATIONS.--

20           (a) Each course must have a supervising instructor who  
21 is approved by the department. The supervising instructor  
22 shall be present at all classes. The supervising instructor  
23 is responsible for:

24           1. All course instructors.

25           ~~2. All guest lecturers.~~

26           ~~2.3.~~ The course outlines and curriculum.

27           ~~3.4.~~ Certification of each attending limited surety  
28 agent or professional bail bond agent.

29           ~~4.5.~~ Completion of all required forms.

30           ~~5.6.~~ Assuring that the course is approved.

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1 Either the entity or the supervising instructor may approve  
2 guest lecturers.

3 Section 3. Paragraph (a) of subsection (1) of section  
4 903.035, Florida Statutes, is amended to read:

5 903.035 Applications for bail; information provided;  
6 hearing on application for modification; penalty for providing  
7 false or misleading information or omitting material  
8 information.--

9 (1)(a) All information provided by a defendant or any  
10 other person, in connection with any application for or  
11 attempt to secure bail, to any court, court personnel, or  
12 individual soliciting or recording such information for the  
13 purpose of evaluating eligibility for, or securing, bail for  
14 the defendant, under circumstances such that the defendant or  
15 such other person knew or should have known that the  
16 information was to be used in connection with an application  
17 for bail, shall be accurate, truthful, and complete without  
18 omissions to the best knowledge of the defendant or such other  
19 person.

20 Section 4. Subsection (3) of section 903.21, Florida  
21 Statutes, is amended to read:

22 903.21 Method of surrender; exoneration of obligors.--

23 (3) The surety shall be exonerated of liability on the  
24 bond if it is determined prior to breach of the bond that the  
25 defendant is in any jail or prison and the surety agrees in  
26 writing to pay the transportation cost of returning the  
27 defendant to the jurisdiction of the court. For purposes of  
28 this subsection, "jurisdiction" means within the judicial  
29 circuit as prescribed by law.

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1 Section 5. Subsection (5) of section 903.26, Florida  
2 Statutes, is amended, and subsection (8) is added to that  
3 section, to read:

4 903.26 Forfeiture of the bond; when and how directed;  
5 discharge; how and when made; effect of payment.--

6 (5) The court ~~shall~~ may discharge a forfeiture within  
7 60 ~~35~~ days upon:

8 (a) A determination that it was impossible for the  
9 defendant to appear as required due to circumstances beyond  
10 the defendant's control. The potential adverse economic  
11 consequences of appearing as required shall not be considered  
12 as constituting a ground for such a determination;

13 (b) A determination that, at the time of the required  
14 appearance, the defendant was adjudicated insane and confined  
15 in an institution or hospital or was confined in a jail or  
16 prison; ~~or~~

17 (c) Surrender or arrest of the defendant if the delay  
18 has not thwarted the proper prosecution of the defendant. If  
19 the forfeiture has been before discharge, the court shall  
20 direct remission of the forfeiture. The court shall condition  
21 a discharge or remission on the payment of costs and the  
22 expenses incurred by an official in returning the defendant to  
23 the jurisdiction of the court; ~~or~~

24 (d) An agreement by the the bail bond agent to pay to  
25 bring the defendant back into the jurisdiction of the court  
26 whenever the state refuses to extradite.

27 (8) If the defendant is arrested and returned to the  
28 county of jurisdiction of the court prior to judgment, the  
29 clerk, without further order of the court, shall set aside the  
30 forfeiture and discharge the bond.

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1           Section 6. Subsection (1) of section 903.27, Florida  
2 Statutes, is amended to read:

3           903.27 Forfeiture to judgment.--

4           (1) If the forfeiture is not paid or discharged by  
5 order of a court of competent jurisdiction within 60 ~~35~~ days  
6 and the bond is secured other than by money and bonds  
7 authorized in s. 903.16, the clerk of the circuit court for  
8 the county where the order was made shall enter a judgment  
9 against the surety for the amount of the penalty and issue  
10 execution. Within 10 days, the clerk shall furnish the  
11 Department of Insurance with a certified copy of the judgment  
12 docket and shall furnish the surety company at its home office  
13 a copy of the judgment, which shall include the power of  
14 attorney number of the bond and the name of the executing  
15 agent. If the judgment is not paid within 35 ~~60~~ days, the  
16 clerk shall furnish the Department of Insurance and the  
17 sheriff of the county in which the bond was executed, or the  
18 official responsible for operation of the county jail, if  
19 other than the sheriff, two copies of the judgment and a  
20 certificate stating that the judgment remains unsatisfied.  
21 When and if the judgment is properly paid or an order to  
22 vacate the judgment has been entered by a court of competent  
23 jurisdiction, the clerk shall immediately notify the sheriff,  
24 or the official responsible for the operation of the county  
25 jail, if other than the sheriff, and the Department of  
26 Insurance, if the department had been previously notified of  
27 nonpayment, of such payment or order to vacate the judgment.  
28 The clerk shall also immediately prepare and record in the  
29 public records a satisfaction of the judgment or record the  
30 order to vacate judgment. Whenever a motion to set aside the

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1 judgment is filed, the operation of this section is tolled  
2 until the court makes a disposition of the motion.

3 Section 7. Section 903.28, Florida Statutes, is  
4 amended to read:

5 903.28 Remission of forfeiture; conditions.--

6 (1) On application within 2 years from forfeiture, the  
7 court shall order remission of the forfeiture if it determines  
8 that there was no breach of the bond.

9 (2) If the defendant surrenders or is apprehended  
10 within 90 days after forfeiture, the court, on motion at a  
11 hearing upon notice having been given to the county attorney  
12 and state attorney as required in subsection (8), shall ~~may~~  
13 direct remission of up to, but not more than, 100 percent of a  
14 forfeiture if the surety apprehended and surrendered the  
15 defendant or if the apprehension or surrender of the defendant  
16 was substantially procured or caused by the surety, or the  
17 surety has substantially attempted to procure or cause the  
18 apprehension or surrender of the defendant, and the delay has  
19 not thwarted the proper prosecution of the defendant. In  
20 addition, remission shall ~~may~~ be granted when the surety did  
21 not substantially participate or attempt to participate in the  
22 apprehension or surrender of the defendant when the costs of  
23 returning the defendant to the jurisdiction of the court have  
24 been deducted from the remission and when the delay has not  
25 thwarted the proper prosecution of the defendant.

26 (3) If the defendant surrenders or is apprehended  
27 within 180 days after forfeiture, the court, on motion at a  
28 hearing upon notice having been given to the county attorney  
29 and state attorney as required in subsection (8), shall ~~may~~  
30 direct remission of up to, but not more than, 95 percent of a  
31 forfeiture if the surety apprehended and surrendered the

1 defendant or if the apprehension or surrender of the defendant  
2 was substantially procured or caused by the surety, or the  
3 surety has substantially attempted to procure or cause the  
4 apprehension or surrender of the defendant, and the delay has  
5 not thwarted the proper prosecution of the defendant. In  
6 addition, remission shall ~~may~~ be granted when the surety did  
7 not substantially participate or attempt to participate in the  
8 apprehension or surrender of the defendant when the costs of  
9 returning the defendant to the jurisdiction of the court have  
10 been deducted from the remission and when the delay has not  
11 thwarted the proper prosecution of the defendant.

12 (4) If the defendant surrenders or is apprehended  
13 within 270 days after forfeiture, the court, on motion at a  
14 hearing upon notice having been given to the county attorney  
15 and state attorney as required in subsection (8), shall ~~may~~  
16 direct remission of up to, but not more than, 90 percent of a  
17 forfeiture if the surety apprehended and surrendered the  
18 defendant or if the apprehension or surrender of the defendant  
19 was substantially procured or caused by the surety, or the  
20 surety has substantially attempted to procure or cause the  
21 apprehension or surrender of the defendant, and the delay has  
22 not thwarted the proper prosecution of the defendant. In  
23 addition, remission shall ~~may~~ be granted when the surety did  
24 not substantially participate or attempt to participate in the  
25 apprehension or surrender of the defendant when the costs of  
26 returning the defendant to the jurisdiction of the court have  
27 been deducted from the remission and when the delay has not  
28 thwarted the proper prosecution of the defendant.

29 (5) If the defendant surrenders or is apprehended  
30 within 1 year after forfeiture, the court, on motion at a  
31 hearing upon notice having been given to the county attorney

1 and state attorney as required in subsection (8), shall ~~may~~  
2 direct remission of up to, but not more than, 85 percent of a  
3 forfeiture if the surety apprehended and surrendered the  
4 defendant or if the apprehension or surrender of the defendant  
5 was substantially procured or caused by the surety, or the  
6 surety has substantially attempted to procure or cause the  
7 apprehension or surrender of the defendant, and the delay has  
8 not thwarted the proper prosecution of the defendant. In  
9 addition, remission shall ~~may~~ be granted when the surety did  
10 not substantially participate or attempt to participate in the  
11 apprehension or surrender of the defendant when the costs of  
12 returning the defendant to the jurisdiction of the court have  
13 been deducted from the remission and when the delay has not  
14 thwarted the proper prosecution of the defendant.

15 (6) If the defendant surrenders or is apprehended  
16 after 1 year ~~within 2 years~~ after forfeiture, the court, on  
17 motion at a hearing upon notice having been given to the  
18 county attorney and state attorney as required in subsection  
19 (8), shall ~~may~~ direct remission of up to, but not more than,  
20 50 percent of a forfeiture if the surety apprehended and  
21 surrendered the defendant or if the apprehension or surrender  
22 of the defendant was substantially procured or caused by the  
23 surety, or the surety has substantially attempted to procure  
24 or cause the apprehension or surrender of the defendant, and  
25 the delay has not thwarted the proper prosecution of the  
26 defendant. In addition, remission shall ~~may~~ be granted when  
27 the surety did not substantially participate or attempt to  
28 participate in the apprehension or surrender of the defendant  
29 when the costs of returning the defendant to the jurisdiction  
30 of the court have been deducted from the remission and when  
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1 the delay has not thwarted the proper prosecution of the  
2 defendant.

3 (7) The remission of a forfeiture may not be ordered  
4 for any reason other than as specified herein.

5 (8) An application for remission must be accompanied  
6 by affidavits setting forth the facts on which it is founded;  
7 however, the surety must establish by further documentation or  
8 other evidence any claimed attempt at procuring or causing the  
9 apprehension or surrender of the defendant before the court  
10 may order remission based upon an attempt to procure or cause  
11 such apprehension or surrender. The state attorney and the  
12 county attorney must be given 20 days' notice before a hearing  
13 on an application and be furnished copies of all papers,  
14 applications, and affidavits. Remission shall be granted on  
15 the condition of payment of costs, unless the ground for  
16 remission is that there was no breach of the bond.

17 Section 8. Section 903.31, Florida Statutes, is  
18 amended to read:

19 903.31 Canceling the bond.--Within 10 business days  
20 after the conditions of a bond have been satisfied or the  
21 forfeiture discharged or remitted, the court shall order the  
22 bond canceled and, if the surety has attached a certificate of  
23 cancellation to the original bond, shall furnish an executed  
24 certificate of cancellation to the surety without cost. An  
25 adjudication of guilt or innocence of the defendant shall  
26 satisfy the conditions of the bond. The original appearance  
27 bond shall expire 36 months after such bond has been posted  
28 for the release of the defendant from custody. This section  
29 does not apply to cases in which a bond has been declared  
30 forfeited.The original appearance bond shall not be construed  
31 to guarantee deferred sentences, appearance during or after a

1 presentence investigation, appearance during or after appeals,  
2 conduct during or appearance after admission to a pretrial  
3 intervention program, payment of fines, or attendance at  
4 educational or rehabilitation facilities the court otherwise  
5 provides in the judgment. If the original appearance bond has  
6 been forfeited or revoked, the bond shall not be reinstated  
7 without approval from the surety on the original bond.

8 Section 9. This act shall take effect October 1, 1999.

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11 LEGISLATIVE SUMMARY

12 Revises bail bond provisions relating to continuing  
13 education, discharge of forfeitures, judgments against  
14 sureties, remissions of forfeitures, and original  
appearance bonds. (See bill for details.)