

By the Committees on Criminal Justice; Banking and Insurance;  
and Senator Clary

307-2020-99

1                                   A bill to be entitled  
 2           An act relating to bail bonds; amending s.  
 3           648.386, F.S.; revising certain continuing  
 4           education requirements; amending s. 648.44,  
 5           F.S.; revising requirements relating to bail  
 6           bond agents; amending s. 903.21, F.S.;  
 7           providing a definition; amending s. 903.26,  
 8           F.S.; requiring discharge of a forfeiture with  
 9           a time certain; providing an additional  
 10          criterion for discharge of a forfeiture;  
 11          requiring a clerk of court to set aside a  
 12          forfeiture and discharge a bond under certain  
 13          circumstances; amending s. 903.27, F.S.;  
 14          providing for tolling certain forfeiture  
 15          operations under certain circumstances;  
 16          amending s. 903.28, F.S.; requiring remissions  
 17          to be granted under certain circumstances;  
 18          amending s. 903.31, F.S.; providing for  
 19          expiration of certain bonds under certain  
 20          circumstances; specifying nonapplication when a  
 21          bond is declared forfeited; prohibiting  
 22          reinstatement of original appearance bonds  
 23          under certain circumstances; providing an  
 24          effective date.

25  
 26 Be It Enacted by the Legislature of the State of Florida:  
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28           Section 1. Paragraph (c) of subsection (2) and  
 29          paragraph (a) of subsection (4) of section 648.386, Florida  
 30          Statutes, are amended to read:  
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1           648.386 Qualifications for prelicensing and continuing  
2 education schools and instructors.--

3           (2) SCHOOLS AND CURRICULUM FOR CONTINUING EDUCATION  
4 SCHOOLS.--In order to be considered for approval and  
5 certification as an approved limited surety agent and  
6 professional bail bond agent continuing education school, such  
7 entity must:

8           (c) Offer continuing education classes which are  
9 comprised of a minimum of 2 hours of approved coursework and  
10 are taught by an approved supervising instructor or guest  
11 lecturer approved by the entity or the supervising instructor.

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

13           (a) Each course must have a supervising instructor who  
14 is approved by the department. The supervising instructor  
15 shall be present at all classes. The supervising instructor  
16 is responsible for:

- 17           1. All course instructors.
- 18           2. All guest lecturers.
- 19           3. The course outlines and curriculum.
- 20           4. Certification of each attending limited surety
- 21 agent or professional bail bond agent.
- 22           5. Completion of all required forms.
- 23           6. Assuring that the course is approved.

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25 Either the entity or the supervising instructor may approve  
26 guest lecturers.

27           Section 2. Paragraph (1) of subsection (1) of section  
28 648.44, Florida Statutes, is amended to read:

29           648.44 Prohibitions; penalty.--

30           (1) A bail bond agent, temporary bail bond agent, or  
31 runner may not:

1           (1) Execute a bond in this state if a judgment has  
2 been entered on a bond executed by the bail bond agent, which  
3 has remained unpaid for 35 ~~60~~ days, unless the full amount of  
4 the judgment is deposited with the clerk in accordance with s.  
5 903.27(5).

6           Section 3. Subsection (3) of section 903.21, Florida  
7 Statutes, is amended to read:

8           903.21 Method of surrender; exoneration of obligors.--

9           (3) The surety shall be exonerated of liability on the  
10 bond if it is determined prior to breach of the bond that the  
11 defendant is in any jail or prison and the surety agrees in  
12 writing to pay the transportation cost of returning the  
13 defendant to the jurisdiction of the court. For purposes of  
14 this subsection, "jurisdiction" means within the judicial  
15 circuit as prescribed by law.

16           Section 4. Subsection (5) of section 903.26, Florida  
17 Statutes, is amended, and subsection (8) is added to that  
18 section, to read:

19           903.26 Forfeiture of the bond; when and how directed;  
20 discharge; how and when made; effect of payment.--

21           (5) The court shall ~~may~~ discharge a forfeiture within  
22 60 ~~35~~ days upon:

23           (a) A determination that it was impossible for the  
24 defendant to appear as required due to circumstances beyond  
25 the defendant's control. The potential adverse economic  
26 consequences of appearing as required shall not be considered  
27 as constituting a ground for such a determination;

28           (b) A determination that, at the time of the required  
29 appearance, the defendant was adjudicated insane and confined  
30 in an institution or hospital or was confined in a jail or  
31 prison; or

1 (c) Surrender or arrest of the defendant if the delay  
2 has not thwarted the proper prosecution of the defendant. If  
3 the forfeiture has been before discharge, the court shall  
4 direct remission of the forfeiture. The court shall condition  
5 a discharge or remission on the payment of costs and the  
6 expenses incurred by an official in returning the defendant to  
7 the jurisdiction of the court.

8 (8) If the defendant is arrested and returned to the  
9 county of jurisdiction of the court prior to judgment, the  
10 clerk, upon affirmation by the sheriff or chief correctional  
11 officer, without further order of the court, shall set aside  
12 the forfeiture and discharge the bond. However, if the surety  
13 agent fails to pay the costs and expenses incurred in  
14 returning the defendant to the county of jurisdiction, the  
15 clerk shall not discharge the forfeiture. In the event the  
16 surety agent and county attorney fail to agree on the amount  
17 of said costs, then the court, upon notice to the county  
18 attorney, shall decide the matter.

19 Section 5. Subsections (1), (3), (4), and (5) of  
20 section 903.27, Florida Statutes, are amended to read:

21 903.27 Forfeiture to judgment.--

22 (1) If the forfeiture is not paid or discharged by  
23 order of a court of competent jurisdiction within 60 ~~35~~ days  
24 and the bond is secured other than by money and bonds  
25 authorized in s. 903.16, the clerk of the circuit court for  
26 the county where the order was made shall enter a judgment  
27 against the surety for the amount of the penalty and issue  
28 execution. Within 10 days, the clerk shall furnish the  
29 Department of Insurance with a certified copy of the judgment  
30 docket and shall furnish the surety company at its home office  
31 a copy of the judgment, which shall include the power of

1 attorney number of the bond and the name of the executing  
2 agent. If the judgment is not paid within 35 ~~60~~ days, the  
3 clerk shall furnish the Department of Insurance and the  
4 sheriff of the county in which the bond was executed, or the  
5 official responsible for operation of the county jail, if  
6 other than the sheriff, two copies of the judgment and a  
7 certificate stating that the judgment remains unsatisfied.  
8 When and if the judgment is properly paid or an order to  
9 vacate the judgment has been entered by a court of competent  
10 jurisdiction, the clerk shall immediately notify the sheriff,  
11 or the official responsible for the operation of the county  
12 jail, if other than the sheriff, and the Department of  
13 Insurance, if the department had been previously notified of  
14 nonpayment, of such payment or order to vacate the judgment.  
15 The clerk shall also immediately prepare and record in the  
16 public records a satisfaction of the judgment or record the  
17 order to vacate judgment. If a defendant is returned to the  
18 county of jurisdiction of the court, whenever a motion to set  
19 aside the judgment is filed, the operation of this section is  
20 tolled until the court makes a disposition of the motion.

21 (3) Surety bail bonds may not be executed by a bail  
22 bond agent against whom a judgment has been entered which has  
23 remained unpaid for 35 ~~60~~ days and may not be executed for a  
24 company against whom a judgment has been entered which has  
25 remained unpaid for 50 ~~75~~ days. No sheriff or other official  
26 who is empowered to accept or approve surety bail bonds shall  
27 accept or approve such a bond executed by such a bail bond  
28 agent or executed for such a company until such judgment has  
29 been paid.

30 (4) After notice of judgment against the surety given  
31 by the clerk of the circuit court, the surety or bail bond

1 agent shall, within 35 ~~60~~ days of the entry of judgment,  
2 submit to the clerk of the circuit court an amount equal to  
3 the judgment, unless the judgment has been set aside by the  
4 court within 35 ~~60~~ days of the entry of judgment. If a motion  
5 to set aside the judgment has been filed pursuant to  
6 subsection (5), the amount submitted shall be held in escrow  
7 until such time as the court has disposed of the motion. The  
8 failure to comply with the provisions of this subsection  
9 constitutes a failure to pay the judgment.

10 (5) After notice of judgment against the surety given  
11 by the clerk of the circuit court, the surety or bail bond  
12 agent may within 35 ~~60~~ days file a motion to set aside the  
13 judgment or to stay the judgment. It shall be a condition of  
14 any such motion and of any order to stay the judgment that the  
15 surety pay the amount of the judgment to the clerk, which  
16 amount shall be held in escrow until such time as the court  
17 has disposed of the motion to set aside the judgment. The  
18 filing of such a motion, when accompanied by the required  
19 escrow deposit, shall act as an automatic stay of further  
20 proceedings, including execution, until the motion has been  
21 heard and a decision rendered by the court.

22 Section 6. Section 903.28, Florida Statutes, is  
23 amended to read:

24 903.28 Remission of forfeiture; conditions.--

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

28 (2) If the defendant surrenders or is apprehended  
29 within 90 days after forfeiture, the court, on motion at a  
30 hearing upon notice having been given to the county attorney  
31 and state attorney as required in subsection (8), shall ~~may~~

1 direct remission of up to, but not more than, 100 percent of a  
2 forfeiture if the surety apprehended and surrendered the  
3 defendant or if the apprehension or surrender of the defendant  
4 was substantially procured or caused by the surety, or the  
5 surety has substantially attempted to procure or cause the  
6 apprehension or surrender of the defendant, and the delay has  
7 not thwarted the proper prosecution of the defendant. In  
8 addition, remission shall ~~may~~ be granted when the surety did  
9 not substantially participate or attempt to participate in the  
10 apprehension or surrender of the defendant when the costs of  
11 returning the defendant to the jurisdiction of the court have  
12 been deducted from the remission and when the delay has not  
13 thwarted the proper prosecution of the defendant.

14 (3) If the defendant surrenders or is apprehended  
15 within 180 days after forfeiture, the court, on motion at a  
16 hearing upon notice having been given to the county attorney  
17 and state attorney as required in subsection (8), shall ~~may~~  
18 direct remission of up to, but not more than, 95 percent of a  
19 forfeiture if the surety apprehended and surrendered the  
20 defendant or if the apprehension or surrender of the defendant  
21 was substantially procured or caused by the surety, or the  
22 surety has substantially attempted to procure or cause the  
23 apprehension or surrender of the defendant, and the delay has  
24 not thwarted the proper prosecution of the defendant. In  
25 addition, remission shall ~~may~~ be granted when the surety did  
26 not substantially participate or attempt to participate in the  
27 apprehension or surrender of the defendant when the costs of  
28 returning the defendant to the jurisdiction of the court have  
29 been deducted from the remission and when the delay has not  
30 thwarted the proper prosecution of the defendant.

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

18           (5) If the defendant surrenders or is apprehended  
19 within 1 year after forfeiture, the court, on motion at a  
20 hearing upon notice having been given to the county attorney  
21 and state attorney as required in subsection (8), shall ~~may~~  
22 direct remission of up to, but not more than, 85 percent of a  
23 forfeiture if the surety apprehended and surrendered the  
24 defendant or if the apprehension or surrender of the defendant  
25 was substantially procured or caused by the surety, or the  
26 surety has substantially attempted to procure or cause the  
27 apprehension or surrender of the defendant, and the delay has  
28 not thwarted the proper prosecution of the defendant. In  
29 addition, remission shall ~~may~~ be granted when the surety did  
30 not substantially participate or attempt to participate in the  
31 apprehension or surrender of the defendant when the costs of



1 returning the defendant to the jurisdiction of the court have  
2 been deducted from the remission and when the delay has not  
3 thwarted the proper prosecution of the defendant.

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

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

23 (8) An application for remission must be accompanied  
24 by affidavits setting forth the facts on which it is founded;  
25 however, the surety must establish by further documentation or  
26 other evidence any claimed attempt at procuring or causing the  
27 apprehension or surrender of the defendant before the court  
28 may order remission based upon an attempt to procure or cause  
29 such apprehension or surrender. The state attorney and the  
30 county attorney must be given 20 days' notice before a hearing  
31 on an application and be furnished copies of all papers,

1 applications, and affidavits. Remission shall be granted on  
2 the condition of payment of costs, unless the ground for  
3 remission is that there was no breach of the bond.

4 Section 7. Section 903.31, Florida Statutes, is  
5 amended to read:

6 903.31 Canceling the bond.--

7 (1) Within 10 business days after the conditions of a  
8 bond have been satisfied or the forfeiture discharged or  
9 remitted, the court shall order the bond canceled and, if the  
10 surety has attached a certificate of cancellation to the  
11 original bond, shall furnish an executed certificate of  
12 cancellation to the surety without cost. An adjudication of  
13 guilt or innocence of the defendant shall satisfy the  
14 conditions of the bond. The original appearance bond shall  
15 expire 36 months after such bond has been posted for the  
16 release of the defendant from custody. This subsection does  
17 not apply to cases in which a bond has been declared  
18 forfeited.

19 (2) The original appearance bond shall not be  
20 construed to guarantee deferred sentences, appearance during  
21 or after a presentence investigation, appearance during or  
22 after appeals, conduct during or appearance after admission to  
23 a pretrial intervention program, payment of fines, or  
24 attendance at educational or rehabilitation facilities the  
25 court otherwise provides in the judgment. If the original  
26 appearance bond has been forfeited or revoked, the bond shall  
27 not be reinstated without approval from the surety on the  
28 original bond.

29 Section 8. This act shall take effect October 1, 1999.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
CS/SB 1516

Deletes the proposed inclusion of "any other person" as being  
subject to criminal penalties if false or misleading  
information on a bail application is provided.