

1 certificate of cancellation to the surety;
2 providing that the original appearance bond
3 does not guarantee the defendant's conduct or
4 appearance in court under certain
5 circumstances; providing an effective date.
6

7 Be It Enacted by the Legislature of the State of Florida:
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9 Section 1. Section 903.02, Florida Statutes, is
10 amended to read:

11 903.02 Actions following ~~with respect to~~ denial;
12 changes in bail ~~or~~ conditions ~~of bail~~ or bond amount;
13 separation by charge or offense ~~of bond prohibited~~; "court"
14 ~~defined~~.--

15 (1) If application for bail is made to an authorized
16 court and denied, no court of inferior jurisdiction shall
17 admit the applicant to bail unless such court of inferior
18 jurisdiction is the court having jurisdiction to try the
19 defendant.

20 (2) No judge of a court of equal or inferior
21 jurisdiction may remove a condition of bail or reduce the
22 amount of bond required, unless such judge:

23 (a) Imposed the conditions of bail or set the amount
24 of bond required;

25 (b) Is the chief judge of the circuit in which the
26 defendant is to be tried;

27 (c) Has been assigned to preside over the criminal
28 trial of the defendant; or

29 (d) Is the designee of the chief judge and a judge has
30 not yet been assigned to the criminal trial.
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1 (3) The term "court," as used in this chapter,
2 includes all state courts.

3 (4) Any judge setting or granting monetary bail shall
4 set a separate and specific bail amount for each charge or
5 offense. When bail is posted, each charge or offense requires
6 a separate bond.

7 Section 2. Subsection (3) is added to section 903.046,
8 Florida Statutes, to read:

9 903.046 Purpose of and criteria for bail
10 determination.--

11 (3) If a defendant is charged with a second or
12 subsequent felony within 3 years after the date of a prior
13 felony charge, regardless of whether a conviction was entered,
14 the defendant forfeits the right to a presumption in favor of
15 release on nonmonetary conditions as provided in s. 907.041.

16 Section 3. Subsection (1) of section 903.047, Florida
17 Statutes, is amended to read:

18 903.047 Conditions of pretrial release.--

19 (1) As a condition of pretrial release, whether such
20 release is by surety bail bond or recognizance bond or in some
21 other form, the defendant ~~court~~ shall ~~require that~~:

22 (a) ~~The defendant~~ Refrain from criminal activity of
23 any kind. ~~;~~ ~~and~~

24 (b) ~~The defendant~~ Refrain from any contact of any type
25 with the victim, except through pretrial discovery pursuant to
26 the Florida Rules of Criminal Procedure.

27 (c) Comply with all conditions of pretrial release.

28 Section 4. Section 903.26, Florida Statutes, is
29 amended to read:

30 903.26 Forfeiture of ~~the bond; when and how directed;~~
31 ~~discharge; how and when made;~~ effect of payment.--

1 (1)(a) A bail bond shall not be forfeited unless:

2 ~~1.(a)~~ The information, indictment, or affidavit was
3 filed within 6 months from the date of arrest;~~7~~ and

4 ~~2.(b)~~ The clerk of court gave the surety at least 72
5 hours' notice, exclusive of Saturdays, Sundays, and holidays,
6 before the time of the required appearance of the defendant.
7 Notice shall not be necessary if the time for appearance is
8 within 72 hours from the time of arrest~~7~~ or if the time is
9 stated on the bond.

10 (b) Instant with any failure to appear by a defendant,
11 the court shall order and issue to the sheriff for execution a
12 capias or arrest warrant for the defendant who has failed to
13 appear. Such capias or warrant shall comply with the
14 requirements of s. 903.046(2)(d) and shall also require
15 extradition of the defendant when arrested in another state if
16 the original charge is a felony and require return
17 transportation of the defendant when arrested in another state
18 to the jurisdiction of the court when arrested on any case
19 within the state. If the court fails or refuses to issue such
20 capias or arrest warrant, the surety shall immediately be
21 exonerated and any bonds deposited shall be discharged by the
22 clerk of the court in compliance with s. 903.31(1).

23 (2)(a) If there is a breach of the bond, the court
24 shall declare the bond and any bonds or money deposited as
25 bail forfeited. The clerk of the court shall mail a notice to
26 the surety agent and surety company in writing within 5 days
27 of the forfeiture. A certificate signed by the clerk of the
28 court or the clerk's designee, certifying that the notice
29 required herein was mailed on a specified date and accompanied
30 by a copy of the required notice, shall constitute sufficient
31 proof that such mailing was properly accomplished as indicated

1 | therein. If such mailing was properly accomplished as
2 | evidenced by such certificate, the failure of the surety
3 | agent, of a company, or of a defendant to receive such mail
4 | notice shall not constitute a defense to such forfeiture and
5 | shall not be grounds for discharge, remission, reduction, set
6 | aside, or continuance of such forfeiture. The forfeiture
7 | shall be paid within 60 days of the date the notice was
8 | mailed.

9 | (b) Failure of the defendant to appear at the time,
10 | date, and place of required appearance shall result in
11 | forfeiture of the bond. Such forfeiture shall be
12 | automatically entered by the clerk upon such failure to
13 | appear, and the clerk shall follow the procedures outlined in
14 | paragraph (a). However, the court may determine, in its
15 | discretion, in the interest of justice, that an appearance by
16 | the defendant on the same day as required does not warrant
17 | forfeiture of the bond; and the court may direct the clerk to
18 | set aside any such forfeiture which may have been entered.
19 | Any appearance by the defendant later than the required day
20 | constitutes forfeiture of the bond, and the court shall not
21 | preclude entry of such forfeiture by the clerk.

22 | (c) If there is a breach of the bond, the clerk shall
23 | provide, upon request, a certified copy of the warrant or
24 | capias to the bail bond agent or surety company.

25 | (3) Sixty days after the forfeiture notice has been
26 | mailed:

27 | (a) State and county officials having custody of
28 | forfeited money shall deposit the money in the fine and
29 | forfeiture fund established pursuant to s. 142.01;

30 | (b) Municipal officials having custody of forfeited
31 | money shall deposit the money in a designated municipal fund;

1 (c) Officials having custody of bonds as authorized by
2 s. 903.16 shall transmit the bonds to the clerk of the circuit
3 court who shall sell them at market value and disburse the
4 proceeds as provided in paragraphs (a) and (b).

5 (4)(a) When a bond is forfeited, the clerk shall
6 transmit the bond and any affidavits to the clerk of the
7 circuit court in which the bond and affidavits are filed. The
8 clerk of the circuit court shall record the forfeiture in the
9 deed or official records book. If the undertakings and
10 affidavits describe real property in another county, the clerk
11 shall transmit the bond and affidavits to the clerk of the
12 circuit court of the county where the property is located who
13 shall record and return them.

14 (b) The bond and affidavits shall be a lien on the
15 real property they describe from the time of recording in the
16 county where the property is located for 2 years or until the
17 final determination of an action instituted thereon within a
18 2-year period. If an action is not instituted within 2 years
19 from the date of recording, the lien shall be discharged. The
20 lien will be discharged 2 years after the recording even if an
21 action was instituted within 2 years unless a lis pendens
22 notice is recorded in the action.

23 (5)(a) The court shall discharge a forfeiture within
24 60 days upon:

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

30 2.(b) A determination that, at the time of the
31 required appearance, the defendant was adjudicated insane and

1 confined in an institution or hospital or was confined in a
2 jail or prison;

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

10 (b) Failure of the state attorney to institute
11 extradition proceedings or extradite the principal on a bail
12 bond after the surety has agreed in writing to pay actual
13 transportation costs shall exonerate the surety, and any
14 forfeiture or judgment shall be set aside or vacated and any
15 payment by the surety of a forfeiture or judgment shall be
16 remitted in full.

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

19 (7) The payment by a surety of a forfeiture under the
20 provisions of this law shall have the same effect on the bond
21 as payment of a judgment.

22 (8) If the defendant is arrested and returned to the
23 county of jurisdiction of the court prior to judgment, the
24 clerk, upon affirmation by the sheriff or the chief
25 correctional officer, shall, without further order of the
26 court, discharge the forfeiture of the bond. However, if the
27 surety agent fails to pay the costs and expenses incurred in
28 returning the defendant to the county of jurisdiction, the
29 clerk shall not discharge the forfeiture of the bond. If the
30 surety agent and the sheriff fail to agree on the amount of
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1 | said costs, then the court, after notice to the sheriff and
2 | the state attorney, shall determine the amount of the costs.

3 | Section 5. Subsection (1) of section 903.27, Florida
4 | Statutes, is amended to read:

5 | 903.27 Forfeiture to judgment.--

6 | (1) If the forfeiture is not paid or discharged by
7 | order of a court of competent jurisdiction within 60 days and
8 | the bond is secured other than by money and bonds authorized
9 | in s. 903.16, the clerk of the circuit court for the county
10 | where the order was made shall enter a judgment against the
11 | surety for the amount of the penalty and issue execution.

12 | However, in any case in which the bond forfeiture has been
13 | discharged by the court of competent jurisdiction conditioned
14 | upon the payment by the surety of certain costs or fees as
15 | allowed by statute, the amount for which judgment may be
16 | entered may not exceed the amount of the unpaid fees or costs
17 | upon which the discharge had been conditioned. Judgment for
18 | the full amount of the forfeiture shall not be entered if
19 | payment of a lesser amount will satisfy the conditions to
20 | discharge the forfeiture. Within 10 days, the clerk shall

21 | furnish the Department of Financial Services and the Office of
22 | Insurance Regulation of the Financial Services Commission with
23 | a certified copy of the judgment docket and shall furnish the
24 | surety company at its home office a copy of the judgment,
25 | which shall include the power of attorney number of the bond
26 | and the name of the executing agent. If the judgment is not
27 | paid within 35 days, the clerk shall furnish the Department of
28 | Financial Services, the Office of Insurance Regulation, and
29 | the sheriff of the county in which the bond was executed, or
30 | the official responsible for operation of the county jail, if
31 | other than the sheriff, two copies of the judgment and a

1 certificate stating that the judgment remains unsatisfied.
2 When and if the judgment is properly paid or an order to
3 vacate the judgment has been entered by a court of competent
4 jurisdiction, the clerk shall immediately notify the sheriff,
5 or the official responsible for the operation of the county
6 jail, if other than the sheriff, and the Department of
7 Financial Services and the Office of Insurance Regulation, if
8 the department and office had been previously notified of
9 nonpayment, of such payment or order to vacate the judgment.
10 The clerk shall also immediately prepare and record in the
11 public records a satisfaction of the judgment or record the
12 order to vacate judgment. If the defendant is returned to the
13 county of jurisdiction of the court, whenever a motion to set
14 aside the judgment is filed, the operation of this section is
15 tolled until the court makes a disposition of the motion.

16 Section 6. Section 903.31, Florida Statutes, is
17 amended to read:

18 903.31 Canceling the bond.--

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

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

11 (3) The original appearance bond does not guarantee
12 the defendant's conduct or appearance in court at any time
13 after:

14 (a) The defendant enters a plea of guilty or nolo
15 contendere;

16 (b) The defendant enters into an agreement for
17 deferred prosecution or agrees to enter a pretrial
18 intervention program;

19 (c) The defendant is acquitted;

20 (d) The defendant is adjudicated guilty;

21 (e) Adjudication of guilt of the defendant is
22 withheld; or

23 (f) The defendant is found guilty by a judge or jury.

24 ~~(4)(3)~~ In any case where no formal charges have been
25 brought against the defendant within 365 days after arrest,
26 the court shall order the bond canceled unless good cause is
27 shown by the state.

28 Section 7. This act shall take effect October 1, 2006.

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