



725954

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2017	.	
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The Committee on Judiciary (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 903.045, Florida Statutes, is amended to
read:

903.045 Nature of criminal surety bail bonds.—It is the
public policy of this state and the intent of the Legislature
that a criminal surety bail bond, executed by a bail bond agent
licensed pursuant to chapter 648 in connection with the pretrial
or appellate release of a criminal defendant, shall be construed



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12 as a commitment by and an obligation upon the bail bond agent to
13 ensure that the defendant appears at all ~~subsequent~~ criminal
14 proceedings for which the surety bond was posted. A person,
15 corporation, company, or other entity that charges a fee or
16 premium to facilitate the release of an accused defendant from
17 jail through the posting of a cash or surety bail bond must be
18 licensed pursuant to chapter 648 and otherwise fulfills all
19 ~~conditions of the bond. The failure of a defendant to appear at~~
20 ~~any subsequent criminal proceeding or the breach by the~~
21 ~~defendant of any other condition of the bond constitutes a~~
22 ~~breach by the bail bond agent of this commitment and obligation.~~

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

25 903.26 Forfeiture of the bond; when and how directed;
26 discharge; how and when made; effect of payment.—

27 (2) (a) If there is a failure of the defendant to appear as
28 required ~~breach of the bond~~, the court shall declare the bond
29 and any bonds or money deposited as bail forfeited. The clerk of
30 the court shall mail or electronically transmit a notice to the
31 surety agent and surety company within 5 days after the
32 forfeiture. A certificate signed by the clerk of the court or
33 the clerk's designee, certifying that the notice required herein
34 was mailed or electronically transmitted on a specified date and
35 accompanied by a copy of the required notice, shall constitute
36 sufficient proof that such mailing or electronic transmission
37 was properly accomplished as indicated therein. If such mailing
38 or electronic transmission was properly accomplished as
39 evidenced by such certificate, the failure of the surety agent,
40 of a company, or of a defendant to receive such notice shall not



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41 constitute a defense to such forfeiture and shall not be grounds
42 for discharge, remission, reduction, set aside, or continuance
43 of such forfeiture. The forfeiture shall be paid within 60 days
44 after ~~of~~ the date the notice was mailed or electronically
45 transmitted.

46 (b) Failure of the defendant to appear at the time, date,
47 and place of required appearance shall result in forfeiture of
48 the bond. Such forfeiture shall be automatically entered by the
49 clerk upon such failure to appear, and the clerk shall follow
50 the procedures ~~outlined~~ in paragraph (a). However, the court may
51 determine, in its discretion, in the interest of justice, that
52 an appearance by the defendant on the same day as required does
53 not warrant forfeiture of the bond; and the court may direct the
54 clerk to set aside any such forfeiture which may have been
55 entered. Any appearance by the defendant later than the required
56 day constitutes forfeiture of the bond, and the court shall not
57 preclude entry of such forfeiture by the clerk.

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

61 (5) The court shall discharge a forfeiture within 60 days
62 upon:

63 (a) A determination that it was impossible for the
64 defendant to appear as required or within 60 days after the date
65 of the required appearance due to circumstances beyond the
66 defendant's control. The potential adverse economic consequences
67 of appearing as required may ~~shall~~ not be considered as
68 constituting a ground for such a determination;

69 (b) A determination that, at the time of the required



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70 appearance or within 60 days after the date of the required
71 appearance, the defendant was adjudicated insane and confined in
72 an institution or hospital; or was confined in any county,
73 state, federal, or immigration detention facility; was deported;
74 or is deceased a jail or prison;

75 (c) Surrender or arrest of the defendant at the time of the
76 required appearance or within 60 days after the date of the
77 required appearance in any county, state, or federal jail or
78 prison and upon a hold being placed to return the defendant to
79 the jurisdiction of the court if the delay has not thwarted the
80 proper prosecution of the defendant. If the forfeiture has been
81 before discharge, the court shall direct remission of the
82 forfeiture. The court shall condition a discharge or remission
83 on the payment of costs and the expenses incurred by an official
84 in returning the defendant to the jurisdiction of the court; or

85 (d) A determination that the state is unwilling to seek
86 extradition of the fugitive defendant within 30 days after a
87 request by the surety agent to do so, and contingent upon the
88 surety agent's consent to pay all costs and the expenses
89 incurred by an official in returning the defendant to the
90 jurisdiction of the court, up to the penal amount of the bond.

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

93 ~~(6)-(7)~~ The payment by a surety of a forfeiture under ~~the~~
94 ~~provisions of~~ this law shall have the same effect on the bond as
95 payment of a judgment.

96 ~~(7)-(8)~~ If the defendant is arrested and returned to the
97 county of jurisdiction of the court or has posted a new bond for
98 the case at issue before ~~prior to~~ judgment, the clerk, upon



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99 affirmation by the sheriff or the chief correctional officer,
100 shall, without further hearing or order of the court, discharge
101 the forfeiture of the bond. However, if the surety agent fails
102 to pay the costs and expenses incurred in returning the
103 defendant to the county of jurisdiction, the clerk shall not
104 discharge the forfeiture of the bond. If the surety agent and
105 the sheriff fail to agree on the amount of said costs, then the
106 court, after notice to the sheriff and the state attorney, shall
107 determine the amount of the costs.

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

110 903.28 Remission of forfeiture; conditions.—

111 (2) If the defendant surrenders or is apprehended within 90
112 days after forfeiture, the court, on motion at a hearing upon
113 notice having been given to the clerk of the circuit court and
114 the state attorney as required in subsection (8), shall direct
115 remission of ~~up to, but not more than,~~ 100 percent of a
116 forfeiture if the surety apprehended and surrendered the
117 defendant or if the apprehension or surrender of the defendant
118 was substantially procured or caused by the surety, or the
119 surety has substantially attempted to procure or cause the
120 apprehension or surrender of the defendant, and the delay has
121 not thwarted the proper prosecution of the defendant. In
122 addition, remission shall be granted when the surety did not
123 substantially participate or attempt to participate in the
124 apprehension or surrender of the defendant when the costs of
125 returning the defendant to the jurisdiction of the court have
126 been deducted from the remission and when the delay has not
127 thwarted the proper prosecution of the defendant.



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128 (3) If the defendant surrenders or is apprehended within
129 180 days after forfeiture, the court, on motion at a hearing
130 upon notice having been given to the clerk of the circuit court
131 and the state attorney as required in subsection (8), shall
132 direct remission of ~~up to, but not more than,~~ 95 percent of a
133 forfeiture if the surety apprehended and surrendered the
134 defendant or if the apprehension or surrender of the defendant
135 was substantially procured or caused by the surety, or the
136 surety has substantially attempted to procure or cause the
137 apprehension or surrender of the defendant, and the delay has
138 not thwarted the proper prosecution of the defendant. In
139 addition, remission shall be granted when the surety did not
140 substantially participate or attempt to participate in the
141 apprehension or surrender of the defendant when the costs of
142 returning the defendant to the jurisdiction of the court have
143 been deducted from the remission and when the delay has not
144 thwarted the proper prosecution of the defendant.

145 (4) If the defendant surrenders or is apprehended within
146 270 days after forfeiture, the court, on motion at a hearing
147 upon notice having been given to the clerk of the circuit court
148 and the state attorney as required in subsection (8), shall
149 direct remission of ~~up to, but not more than,~~ 90 percent of a
150 forfeiture if the surety apprehended and surrendered the
151 defendant or if the apprehension or surrender of the defendant
152 was substantially procured or caused by the surety, or the
153 surety has substantially attempted to procure or cause the
154 apprehension or surrender of the defendant, and the delay has
155 not thwarted the proper prosecution of the defendant. In
156 addition, remission shall be granted when the surety did not



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157 substantially participate or attempt to participate in the
158 apprehension or surrender of the defendant when the costs of
159 returning the defendant to the jurisdiction of the court have
160 been deducted from the remission and when the delay has not
161 thwarted the proper prosecution of the defendant.

162 (5) If the defendant surrenders or is apprehended within 1
163 year after forfeiture, the court, on motion at a hearing upon
164 notice having been given to the clerk of the circuit court and
165 the state attorney as required in subsection (8), shall direct
166 remission of ~~up to, but not more than,~~ 85 percent of a
167 forfeiture if the surety apprehended and surrendered the
168 defendant or if the apprehension or surrender of the defendant
169 was substantially procured or caused by the surety, or the
170 surety has substantially attempted to procure or cause the
171 apprehension or surrender of the defendant, and the delay has
172 not thwarted the proper prosecution of the defendant. In
173 addition, remission shall be granted when the surety did not
174 substantially participate or attempt to participate in the
175 apprehension or surrender of the defendant when the costs of
176 returning the defendant to the jurisdiction of the court have
177 been deducted from the remission and when the delay has not
178 thwarted the proper prosecution of the defendant.

179 (6) If the defendant surrenders or is apprehended within 2
180 years after forfeiture, the court, on motion at a hearing upon
181 notice having been given to the clerk of the circuit court and
182 the state attorney as required in subsection (8), shall direct
183 remission of ~~up to, but not more than,~~ 50 percent of a
184 forfeiture if the surety apprehended and surrendered the
185 defendant or if the apprehension or surrender of the defendant



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186 was substantially procured or caused by the surety, or the
187 surety has substantially attempted to procure or cause the
188 apprehension or surrender of the defendant, and the delay has
189 not thwarted the proper prosecution of the defendant. In
190 addition, remission shall be granted when the surety did not
191 substantially participate or attempt to participate in the
192 apprehension or surrender of the defendant when the costs of
193 returning the defendant to the jurisdiction of the court have
194 been deducted from the remission and when the delay has not
195 thwarted the proper prosecution of the defendant.

196 Section 4. Section 903.31, Florida Statutes, is amended to
197 read:

198 903.31 Canceling the bond.—

199 (1) Within 10 business days after the conditions of a bond
200 have been satisfied or the forfeiture discharged or remitted,
201 the court shall order the bond canceled and, if the surety has
202 attached a certificate of cancellation to the original bond, the
203 clerk of the court shall mail or electronically furnish an
204 executed certificate of cancellation to the surety without cost.
205 An adjudication of guilt or innocence or, an acquittal, if a
206 period of 36 months has passed since the original bond was
207 posted, or a withholding of an adjudication of guilt shall
208 satisfy the conditions of the bond. The original appearance bond
209 shall expire 36 months after such bond has been posted for the
210 release of the defendant from custody. This subsection does not
211 apply to cases in which a bond has been declared forfeited
212 before the 36-month expiration.

213 (2) The original appearance bond does not guarantee a
214 deferred sentence; sentences, appearance during or after a



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215 presentence investigation;; appearance during or after appeals;;
216 conduct during or appearance after admission to a pretrial
217 intervention program; placement in a court-ordered program,
218 including a residential mental health facility; payment of
219 fines;; or attendance at educational or rehabilitation
220 facilities the court otherwise provides in the judgment. If the
221 original appearance bond has been forfeited or revoked, the bond
222 shall not be reinstated without approval from the surety on the
223 original bond.

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

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

229
230 ===== T I T L E A M E N D M E N T =====

231 And the title is amended as follows:

232 Delete everything before the enacting clause
233 and insert:

234 A bill to be entitled
235 An act relating to bail bonds; amending s. 903.045,
236 F.S.; revising legislative intent concerning the
237 obligations of a bail bond agent; revising the
238 commitments and obligations of a bail bond agent;
239 requiring that anyone charging a fee or premium to
240 post a cash or surety bail bond be licensed under
241 specified provisions; deleting a provision relating to
242 circumstances that constitute a breach by the bail
243 bond agent; amending s. 903.26, F.S.; revising the



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244 circumstances under which a surety bond deposited as
245 bail must be forfeited; revising the circumstances
246 that require a forfeiture to be discharged; amending
247 s. 903.28, F.S.; revising the amount of forfeiture to
248 be remitted under specified conditions; amending s.
249 903.31, F.S.; specifying that certain provisions
250 concerning cancellation of a bond do not apply if the
251 bond is forfeited within a specified period after it
252 has been posted; providing that an original appearance
253 bond does not guarantee placement in a court-ordered
254 program; providing an effective date.