

1                   A bill to be entitled  
2           An act relating to bail bonds; amending s. 903.045,  
3           F.S.; revising legislative intent concerning the  
4           obligations of a bail bond agent; amending s. 903.26,  
5           F.S.; specifying that a failure to appear before the  
6           court in a proceeding for which the surety bond was  
7           posted requires the bond and any bonds or money  
8           deposited as bail to be forfeited; revising the  
9           circumstances that require a forfeiture to be  
10          discharged; amending s. 903.28, F.S.; revising the  
11          amount of forfeiture to be remitted under different  
12          specified conditions; amending s. 903.31, F.S.;  
13          specifying that certain provisions concerning  
14          cancellation of a bond do not apply if the bond is  
15          forfeited within a specified period after it has been  
16          posted; providing that original appearance bond does  
17          not guarantee placement in any court-ordered program;  
18          providing an effective date.

19  
20   Be It Enacted by the Legislature of the State of Florida:

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

24           903.045   Nature of criminal surety bail bonds.—It is the  
25   public policy of this state and the intent of the Legislature  
26   that a criminal surety bail bond, executed by a bail bond agent

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27 licensed pursuant to chapter 648 in connection with the pretrial  
28 or appellate release of a criminal defendant, shall be construed  
29 as a commitment by and an obligation upon the bail bond agent to  
30 ensure that the defendant appears at all ~~subsequent~~ criminal  
31 proceedings for which the surety bond was posted ~~and otherwise~~  
32 ~~fulfills all conditions of the bond~~. The failure of a defendant  
33 to appear at any subsequent criminal proceeding for which the  
34 surety bond was posted ~~or the breach by the defendant of any~~  
35 ~~other condition of the bond~~ constitutes a breach by the bail  
36 bond agent of this commitment and obligation.

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

39 903.26 Forfeiture of the bond; when and how directed;  
40 discharge; how and when made; effect of payment.—

41 (2) (a) If there is a failure to appear before the court in  
42 a proceeding for which the surety bond was posted ~~breach of the~~  
43 ~~bond~~, the court shall declare the bond and any bonds or money  
44 deposited as bail forfeited. The clerk of the court shall mail  
45 or electronically transmit a notice to the surety agent and  
46 surety company within 5 days after the forfeiture. A certificate  
47 signed by the clerk of the court or the clerk's designee,  
48 certifying that the notice required herein was mailed or  
49 electronically transmitted on a specified date and accompanied  
50 by a copy of the required notice, shall constitute sufficient  
51 proof that such mailing or electronic transmission was properly  
52 accomplished as indicated therein. If such mailing or electronic

53 transmission was properly accomplished as evidenced by such  
54 certificate, the failure of the surety agent, of a company, or  
55 of a defendant to receive such notice shall not constitute a  
56 defense to such forfeiture and shall not be grounds for  
57 discharge, remission, reduction, set aside, or continuance of  
58 such forfeiture. The forfeiture shall be paid within 60 days  
59 after ~~of~~ the date the notice was mailed or electronically  
60 transmitted.

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

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

76 (5) The court shall discharge a forfeiture within 60 days  
77 upon:

78 (a) A determination that it was impossible for the

79 | defendant to appear as required at the required appearance or  
 80 | within 60 days after the required appearance due to  
 81 | circumstances beyond the defendant's control. The potential  
 82 | adverse economic consequences of appearing as required may ~~shall~~  
 83 | not be considered as constituting a ground for such a  
 84 | determination;

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

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

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

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

105        (6)~~(7)~~ The payment by a surety of a forfeiture under ~~the~~  
 106 ~~provisions of~~ this law shall have the same effect on the bond as  
 107 payment of a judgment.

108        (7)~~(8)~~ If the defendant is arrested and returned to the  
 109 county of jurisdiction of the court or has posted a new bond for  
 110 the case at issue before ~~prior to~~ judgment, the clerk, upon  
 111 affirmation by the sheriff or the chief correctional officer,  
 112 shall, without further hearing and order of the court, discharge  
 113 the forfeiture of the bond. However, if the surety agent fails  
 114 to pay the costs and expenses incurred in returning the  
 115 defendant to the county of jurisdiction, the clerk shall not  
 116 discharge the forfeiture of the bond. If the surety agent and  
 117 the sheriff fail to agree on the amount of said costs, then the  
 118 court, after notice to the sheriff and the state attorney, shall  
 119 determine the amount of the costs.

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

122        903.28 Remission of forfeiture; conditions.—

123        (2) If the defendant surrenders or is apprehended within  
 124 90 days after forfeiture, the court, on motion at a hearing upon  
 125 notice having been given to the clerk of the circuit court and  
 126 the state attorney as required in subsection (8), shall direct  
 127 remission of ~~up to, but not more than,~~ 100 percent of a  
 128 forfeiture if the surety apprehended and surrendered the  
 129 defendant or if the apprehension or surrender of the defendant  
 130 was substantially procured or caused by the surety, or the

131 surety has substantially attempted to procure or cause the  
132 apprehension or surrender of the defendant, and the delay has  
133 not thwarted the proper prosecution of the defendant. In  
134 addition, remission shall be granted when the surety did not  
135 substantially participate or attempt to participate in the  
136 apprehension or surrender of the defendant when the costs of  
137 returning the defendant to the jurisdiction of the court have  
138 been deducted from the remission and when the delay has not  
139 thwarted the proper prosecution of the defendant.

140 (3) If the defendant surrenders or is apprehended within  
141 180 days after forfeiture, the court, on motion at a hearing  
142 upon notice having been given to the clerk of the circuit court  
143 and the state attorney as required in subsection (8), shall  
144 direct remission of ~~up to, but not more than,~~ 95 percent of a  
145 forfeiture if the surety apprehended and surrendered the  
146 defendant or if the apprehension or surrender of the defendant  
147 was substantially procured or caused by the surety, or the  
148 surety has substantially attempted to procure or cause the  
149 apprehension or surrender of the defendant, and the delay has  
150 not thwarted the proper prosecution of the defendant. In  
151 addition, remission shall be granted when the surety did not  
152 substantially participate or attempt to participate in the  
153 apprehension or surrender of the defendant when the costs of  
154 returning the defendant to the jurisdiction of the court have  
155 been deducted from the remission and when the delay has not  
156 thwarted the proper prosecution of the defendant.

157 (4) If the defendant surrenders or is apprehended within  
158 270 days after forfeiture, the court, on motion at a hearing  
159 upon notice having been given to the clerk of the circuit court  
160 and the state attorney as required in subsection (8), shall  
161 direct remission of ~~up to, but not more than,~~ 90 percent of a  
162 forfeiture if the surety apprehended and surrendered the  
163 defendant or if the apprehension or surrender of the defendant  
164 was substantially procured or caused by the surety, or the  
165 surety has substantially attempted to procure or cause the  
166 apprehension or surrender of the defendant, and the delay has  
167 not thwarted the proper prosecution of the defendant. In  
168 addition, remission shall be granted when the surety did not  
169 substantially participate or attempt to participate in the  
170 apprehension or surrender of the defendant when the costs of  
171 returning the defendant to the jurisdiction of the court have  
172 been deducted from the remission and when the delay has not  
173 thwarted the proper prosecution of the defendant.

174 (5) If the defendant surrenders or is apprehended within 1  
175 year after forfeiture, the court, on motion at a hearing upon  
176 notice having been given to the clerk of the circuit court and  
177 the state attorney as required in subsection (8), shall direct  
178 remission of ~~up to, but not more than,~~ 85 percent of a  
179 forfeiture if the surety apprehended and surrendered the  
180 defendant or if the apprehension or surrender of the defendant  
181 was substantially procured or caused by the surety, or the  
182 surety has substantially attempted to procure or cause the

183 apprehension or surrender of the defendant, and the delay has  
184 not thwarted the proper prosecution of the defendant. In  
185 addition, remission shall be granted when the surety did not  
186 substantially participate or attempt to participate in the  
187 apprehension or surrender of the defendant when the costs of  
188 returning the defendant to the jurisdiction of the court have  
189 been deducted from the remission and when the delay has not  
190 thwarted the proper prosecution of the defendant.

191 (6) If the defendant surrenders or is apprehended within 2  
192 years after forfeiture, the court, on motion at a hearing upon  
193 notice having been given to the clerk of the circuit court and  
194 the state attorney as required in subsection (8), shall direct  
195 remission of ~~up to, but not more than,~~ 50 percent of a  
196 forfeiture if the surety apprehended and surrendered the  
197 defendant or if the apprehension or surrender of the defendant  
198 was substantially procured or caused by the surety, or the  
199 surety has substantially attempted to procure or cause the  
200 apprehension or surrender of the defendant, and the delay has  
201 not thwarted the proper prosecution of the defendant. In  
202 addition, remission shall be granted when the surety did not  
203 substantially participate or attempt to participate in the  
204 apprehension or surrender of the defendant when the costs of  
205 returning the defendant to the jurisdiction of the court have  
206 been deducted from the remission and when the delay has not  
207 thwarted the proper prosecution of the defendant.

208 Section 4. Section 903.31, Florida Statutes, is amended to

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209 read:

210 903.31 Canceling the bond.—

211 (1) Within 10 business days after the conditions of a bond  
212 have been satisfied or the forfeiture discharged or remitted,  
213 the court shall order the bond canceled and, if the surety has  
214 attached a certificate of cancellation to the original bond, the  
215 clerk of the court shall mail or electronically furnish an  
216 executed certificate of cancellation to the surety without cost.  
217 An adjudication of guilt or innocence, an acquittal, or a  
218 withholding of an adjudication of guilt shall satisfy the  
219 conditions of the bond. The original appearance bond shall  
220 expire 36 months after such bond has been posted for the release  
221 of the defendant from custody. This subsection does not apply to  
222 cases in which a bond has been declared forfeited before the 36-  
223 month expiration.

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

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

239           Section 5. This act shall take effect July 1, 2016.