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SESSION 2015

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SENATE DRS35197-LH-103A (02/25)

Short Title: Amend Bail Bond Laws.

(Public)

Sponsors: Senators Lee and Randleman (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS AMENDMENTS TO THE BAIL BOND LAWS.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 15A-534 reads as rewritten:

5 "**§ 15A-534. Procedure for determining conditions of pretrial release.**

6 ...
7 (d) The judicial official authorizing pretrial release under this section must issue an
8 appropriate order containing a statement of the conditions imposed, if any; inform the
9 defendant in writing of the penalties applicable to violations of the conditions of his release;
10 and advise him that his arrest will be ordered immediately upon any violation. The order of
11 release must be filed with the clerk and a copy given the ~~defendant~~ defendant and any surety,
12 including runners, who provide a bond as described in subdivision (4) of subsection (a) this
13 section.

14 ...
15 (h) A bail bond posted pursuant to this section is effective and binding upon the obligor
16 throughout all stages of the proceeding in the trial division of the General Court of Justice until
17 the entry of judgment in the district court from which no appeal is taken or the entry of
18 judgment in the superior court. The obligation of an obligor, however, is terminated at an
19 earlier time if:

20 (1) A judge authorized to do so releases the obligor from his bond; or

21 (2) The principal is surrendered by a surety in accordance with G.S. 15A-540; or

22 (3) The proceeding is terminated by voluntary dismissal by the State before
23 forfeiture is ordered under G.S. 15A-544.3; or

24 (4) Prayer for judgment has been continued indefinitely in the district
25 court. court; or

26 (5) The defendant has been ruled incapable to proceed by the courts; or

27 (6) The defendant has entered into a deferred prosecution agreement.

28 (i) Repealed by Session Laws 2012-146, s. 1(b), effective December 1, 2012.

29 (j) No surety shall be held liable for a bond posted for any charge for more than 36
30 months."

31 **SECTION 2.** G.S. 15A-544.5 reads as rewritten:

32 "**§ 15A-544.5. Setting aside forfeiture.**

33 ...
34 (b) Reasons for Set Aside. – Except as provided by subsection (f) of this section, a
35 forfeiture shall be set aside for any one of the following reasons, and none other:



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1 (1) The defendant's failure to appear has been set aside by the court and any
 2 order for arrest issued for that failure to appear has been recalled, as
 3 evidenced by a copy of an official court record, including an electronic
 4 record.

5 (2) All charges for which the defendant was bonded to appear have been finally
 6 disposed by the court ~~other than or~~ by the State's taking dismissal with ~~leave,~~
 7 leave for other than a failure to appear, as evidenced by a copy of an official
 8 court record, including an electronic record.

9 ...
 10 (7) The defendant was incarcerated in a local, state, or federal detention center,
 11 jail, or prison located anywhere within the borders of the United States at the
 12 time of the failure to appear, or at any time between the failure to appear and
 13 the final judgment date and the district attorney for the county in which the
 14 charges are pending was notified of the defendant's incarceration while the
 15 defendant was still incarcerated and the defendant remains incarcerated for a
 16 period of 10 days following the district attorney's receipt of notice, as
 17 evidenced by a copy of the written notice served on the district attorney via
 18 hand delivery or certified mail and written documentation of date upon
 19 which the defendant was released from incarceration, if the defendant was
 20 released prior to the time the motion to set aside was filed.

21 (c) Procedure When Failure to Appear Is Stricken. – If the court before which a
 22 defendant's appearance was secured by a bail bond enters an order striking the defendant's
 23 failure to appear ~~and or~~ recalling any order for arrest issued for that failure to appear, ~~that court~~
 24 ~~may simultaneously enter an order setting~~ the clerk shall set aside any forfeiture of that bail
 25 ~~bond. When an order setting aside a forfeiture is entered,~~ bond and the defendant's further
 26 appearances shall continue to be secured by that bail bond unless the court orders otherwise.

27 (d) Motion Procedure. – If a forfeiture is not set aside under subsection (c) of this
 28 section, the only procedure for setting it aside is as follows:

29 ...
 30 (5) If either the district attorney or the county board of education files a written
 31 objection to the motion, then not more than 30 days after the objection is
 32 filed a hearing on the motion and objection shall be held in the county, in the
 33 trial division in which the defendant was bonded to appear. If the hearing is
 34 not heard within 30 days after the objection is filed, the forfeiture shall not
 35 become a final judgment and shall not be enforced or reported to the
 36 Department of Insurance. The forfeiture shall be set aside.

37"

38 **SECTION 3.** G.S. 15A-544.7(d) reads as rewritten:

39 "(d) ~~Sureties May Not Execute Bonds in County. Bondsman May Not Execute Bonds in~~
 40 County. – After a final judgment is docketed as provided in this section, no surety named in the
 41 judgment shall become a surety on any bail bond in the county in which the judgment is
 42 docketed until the judgment is satisfied in full. In addition, no bondsman whose name appears
 43 on a bond or "Bond Forfeiture Notice" which results in a final judgment shall sign any bond for
 44 any surety until the judgment is satisfied in full."

45 **SECTION 4.** This act becomes effective December 1, 2015. This act applies to
 46 bonds required by an order for pretrial release entered on or after that date and also applies to
 47 any motion for relief from a forfeiture of bond filed on or after that date.