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Georgia Codes

TITLE 17 - CRIMINAL PROCEDURE

CHAPTER 6 - BONDS AND RECOGNIZANCES

ARTICLE 1 - GENERAL PROVISIONS

§ 17-6-1 - Where offenses bailable; procedure; schedule of bails; appeal bonds

O.C.G.A. 17-6-1 (2010)

17-6-1. Where offenses bailable; procedure; schedule of bails; appeal bonds

(a) The following offenses are bailable only before a judge of the superior court:

- (1) Treason;
- (2) Murder;
- (3) Rape;
- (4) Aggravated sodomy;
- (5) Armed robbery;
- (6) Aircraft hijacking and hijacking a motor vehicle;
- (7) Aggravated child molestation;
- (8) Aggravated sexual battery;
- (9) Manufacturing, distributing, delivering, dispensing, administering, or selling any controlled substance classified under Code Section 16-13-25 as Schedule I or under Code Section 16-13-26 as Schedule II;
- (10) Violating Code Section 16-13-31 or Code Section 16-13-31.1;
- (11) Kidnapping, arson, aggravated assault, or burglary if the person, at the time of the alleged kidnapping, arson, aggravated assault, or burglary, had previously been convicted of, was on probation or parole with respect to, or was on bail for kidnapping, arson, aggravated assault, burglary, or one or more of the offenses listed in paragraphs (1) through (10) of this subsection;
- (12) Aggravated stalking; and
- (13) Violations of Chapter 15 of Title 16.

(b)(1) All offenses not included in subsection (a) of this Code section are bailable by a court of inquiry. Except as provided in subsection (g) of this Code section, at no time, either before a court of inquiry, when indicted or accused, after a motion for new trial is made, or while an appeal is pending, shall any person charged with a misdemeanor be refused bail.

(2) Except as otherwise provided in this chapter:

(A) A person charged with violating Code Section 40-6-391 whose alcohol concentration at the time of arrest, as determined by any method authorized by law, violates that provided in paragraph (5) of subsection (a) of Code Section 40-6-391 may be detained for a period of time up to six hours after booking and prior to being released on bail or on recognizance; and

(B) When an arrest is made by a law enforcement officer without a warrant upon an act of family violence pursuant to Code Section 17-4-20, the person charged with the offense shall not be eligible for bail prior to the arresting officer or some other law enforcement officer taking the arrested person before a judicial officer pursuant to Code Section 17-4-21.

(3)(A) Notwithstanding any other provision of law, a judge of a court of inquiry may, as a condition of bail or other pretrial release of a person who is charged with violating Code Section 16-5-90 or 16-5-91, prohibit the defendant from entering or remaining present at the victim's school, place of employment, or other specified places at times when the victim is present or intentionally following such person.

(B) If the evidence shows that the defendant has previously violated the conditions of pretrial release or probation or parole which arose out of a violation of Code Section 16-5-90 or 16-5-91, the judge of a court of inquiry may impose such restrictions on the defendant which may be necessary to deter further stalking of the victim, including but not limited to denying bail or pretrial release.

(c)(1) In the event a person is detained in a facility other than a municipal jail for an offense which is bailable only before a judge of the superior court, as provided in subsection (a) of this Code section, and a hearing is held pursuant to Code Section 17-4-26 or 17-4-62, the presiding judicial officer shall notify the superior court in writing within 48 hours that the arrested person is being held without bail. If the detained person has not already petitioned for bail as provided in

subsection (d) of this Code section, the superior court shall notify the district attorney and shall set a date for a hearing on the issue of bail within 30 days after receipt of such notice.

(2) In the event a person is detained in a municipal jail for an offense which is bailable only before a judge of the superior court as provided in subsection (a) of this Code section for a period of 30 days, the municipal court shall notify the superior court in writing within 48 hours that the arrested person has been held for such time without bail. If the detained person has not already petitioned for bail as provided in subsection (d) of this Code section, the superior court shall notify the district attorney and set a date for a hearing on the issue of bail within 30 days after receipt of such notice.

(3) Notice sent to the superior court pursuant to paragraph (1) or (2) of this subsection shall include any incident reports and criminal history reports relevant to the detention of such person.

(d) A person charged with any offense which is bailable only before a judge of the superior court as provided in subsection (a) of this Code section may petition the superior court requesting that such person be released on bail. The court shall notify the district attorney and set a date for a hearing within ten days after receipt of such petition.

(e) A court shall be authorized to release a person on bail if the court finds that the person:

(1) Poses no significant risk of fleeing from the jurisdiction of the court or failing to appear in court when required;

(2) Poses no significant threat or danger to any person, to the community, or to any property in the community;

(3) Poses no significant risk of committing any felony pending trial; and

(4) Poses no significant risk of intimidating witnesses or otherwise obstructing the administration of justice.

However, if the person is charged with a serious violent felony and has already been convicted of a serious violent felony, or of an offense under the laws of any other state or of the United States which offense if committed in this state would be a serious violent felony, there shall be a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the person as required or assure the safety of any other person or the community. As used in this subsection, the term "serious violent felony" means a serious violent felony as defined in Code Section 17-10-6.1.

(f)(1) Except as provided in subsection (a) of this Code section or as otherwise provided in this subsection, the judge of any court of inquiry may by written order establish a schedule of bails and unless otherwise ordered by the judge of any court, a person charged with committing any offense shall be released from custody upon posting bail as fixed in the schedule.

(2) For offenses involving an act of family violence, as defined in Code Section 19-13-1, the schedule of bails provided for in paragraph (1) of this subsection shall require increased bail and shall include a listing of specific conditions which shall include, but not be limited to, having no contact of any kind or character with the victim or any member of the victim's family or household, not physically abusing or threatening to physically abuse the victim, the immediate enrollment in and participation in domestic violence counseling, substance abuse therapy, or other therapeutic requirements.

(3) For offenses involving an act of family violence, the judge shall determine whether the schedule of bails and one or more of its specific conditions shall be used, except that any offense involving an act of family violence and serious injury to the victim shall be bailable only before a judge when the judge or the arresting officer is of the opinion that the danger of further violence to or harassment or intimidation of the victim is such as to make it desirable that the consideration of the imposition of additional conditions as authorized in this Code section should be made. Upon setting bail in any case involving family violence, the judge shall give particular consideration to the exigencies of the case at hand and shall impose any specific conditions as he or she may deem necessary. As used in this Code section, the term "serious injury" means bodily harm capable of being perceived by a person other than the victim and may include, but is not limited to, substantially blackened eyes, substantially swollen lips or other facial or body parts,

substantial bruises to body parts, fractured bones, or permanent disfigurements and wounds inflicted by deadly weapons or any other objects which, when used offensively against a person, are capable of causing serious bodily injury.

(4) For violations of Code Section 16-15-4, the court shall require increased bail and shall include as a condition of bail or pretrial release that the defendant shall not have contact of any kind or character with any other member or associate of a criminal street gang and, in cases involving a victim, that the defendant shall not have contact of any kind or character with any such victim or any member of any such victim's family or household.

(5) For offenses involving violations of Code Section 40-6-393, bail or other release from custody shall be set by a judge on an individual basis and not a schedule of bails pursuant to this Code section.

(g) No appeal bond shall be granted to any person who has been convicted of murder, rape, aggravated sodomy, armed robbery, aggravated child molestation, child molestation, kidnapping, trafficking in cocaine or marijuana, aggravated stalking, or aircraft hijacking and who has been sentenced to serve a period of incarceration of five years or more. The granting of an appeal bond to a person who has been convicted of any other felony offense or of any misdemeanor offense involving an act of family violence as defined in Code Section 19-13-1, or of any offense delineated as a high and aggravated misdemeanor or of any offense set forth in Code Section 40-6-391, shall be in the discretion of the convicting court. Appeal bonds shall terminate when the right of appeal terminates, and such bonds shall not be effective as to any petition or application for writ of certiorari unless the court in which the petition or application is filed so specifies.

(h) Except in cases in which life imprisonment or the death penalty may be imposed, a judge of the superior court by written order may delegate the authority provided for in this Code section to any judge of any court of inquiry within such superior court judge's circuit. However, such authority may not be exercised outside the county in which said judge of the court of inquiry was appointed or elected. The written order delegating such authority shall be valid for a period of one year, but may be revoked by the superior court judge issuing such order at any time prior to the end of that one-year period.

(i) As used in this Code section, the term "bail" shall include the releasing of a person on such person's own recognizance, except as limited by the provisions of Code Section 17-6-12.

(j) For all persons who have been authorized by law or the court to be released on bail, sheriffs and constables shall accept such bail; provided, however, that the sureties tendered and offered on the bond are approved by the sheriff of the county in which the offense was committed.

**§ 17-6-1.1 - Electronic pretrial release and monitoring program for defendants;
requirements; procedures; fees**

O.C.G.A. 17-6-1.1 (2010)

17-6-1.1. Electronic pretrial release and monitoring program for defendants;
requirements; procedures; fees

(a) In addition to other methods of posting bail or as special condition of bond, a defendant may be released from custody pending the trial of his or her case on the condition that the defendant comply with the terms and conditions of an electronic pretrial release and monitoring program which is approved pursuant to subsection (j) of this Code section. The sheriff of a county may enter into agreements with such approved providers. A bonding company, bonding agent, or probation service provider may be a provider of such services.

(b) If it appears to the court that a defendant subject to its jurisdiction is a suitable candidate for electronic pretrial release and monitoring, the court may, in its sole discretion and subject to the eligibility requirements of this Code section, authorize the defendant to be released under the provisions of an electronic pretrial release and monitoring program. A judge may only authorize electronic pretrial release and monitoring if that judge has jurisdiction to set a bond for the offense charged and the defendant is otherwise eligible for bond under subsection (e) of Code Section 17-6-1. When a court of competent jurisdiction has already set bond for a defendant indicating that the defendant is otherwise eligible for release on bail pursuant to subsection (e) of Code Section 17-6-1, in addition to accepting cash in satisfaction of the bond set by a court, the court may instruct the sheriff that the defendant is to be released to an electronic pretrial release and monitoring program.

(c) The court, in its sole discretion, may revoke at any time the eligibility of any defendant to participate in the electronic pretrial release and monitoring program in which event the defendant shall be immediately returned to custody. If the defendant's case has not been assigned to a particular division of the court, the chief judge shall have such authority.

(d) A defendant may not be released to, or remain in, an electronic pretrial release and monitoring program who has any other outstanding warrants, accusations, indictments, holds, or incarceration orders from any other court, law enforcement agency, or probation or parole officer that require the posting of bond or further adjudication.

(e) A defendant released pursuant to an electronic pretrial release and monitoring program shall abide by such conditions as the court may impose relating to such program, including, but not limited to, the following:

- (1) Periods of home confinement;
- (2) Compliance with all requirements and conditions of the electronic pretrial release and monitoring program provider;
- (3) Compliance with any court orders or special conditions of bond which may include an order directing that no contact, direct or indirect, be made with the victim or forbidding entry upon, about, or near certain premises;
- (4) An order directing that the accused provide support and maintenance for the person's dependents to the best of his or her ability;
- (5) Restrictions on the use of alcoholic beverages and controlled substances;
- (6) Curfews;
- (7) Limitations on work hours and employment;
- (8) An order directing the accused to submit to test of breath, blood, or urine from time to time;
- (9) Travel restrictions;
- (10) An order directing that electronic pretrial release and monitoring equipment be kept in good working condition;
- (11) An order directing that the person refrain from violating the criminal laws of any state, county, or municipality;

(12) An order directing timely payment of all fees connected with the electronic pretrial release and monitoring program;

(13) Payroll deductions to fund electronic pretrial release and monitoring fees;

(14) Provisions to permit reasonable medical treatment;

(15) Provisions for procuring reasonable necessities, such as grocery shopping;

(16) Provisions for attendance in educational, rehabilitative, and treatment programs; and

(17) Such other terms and conditions as the court may deem just and proper.

(f) Under no circumstances shall electronic pretrial release and monitoring equipment be introduced internally or beneath the skin of any person.

(g) In the event that a court of competent jurisdiction finds probable cause, upon oath, affirmation, or sworn affidavit, that a defendant has violated the terms or conditions of his or her electronic pretrial release and monitoring program, other than terms regarding home confinement set forth in paragraph (1) of subsection (e) of this Code section, or finds that the defendant provided false or misleading information concerning his or her qualifications to participate in the electronic pretrial release and monitoring program, including, but not limited to, name, date of birth, address, or other personal identification information, then the defendant's ongoing participation in such program shall be terminated immediately and, upon arrest of the defendant for such violation by any law enforcement officer, the defendant shall be returned to confinement at the county jail or other facility from which the defendant was released.

(h) (1) As an additional condition of electronic pretrial release and monitoring, a defendant authorized to participate in such program by the court shall pay a reasonable, nonrefundable fee for program enrollment, equipment use, and monitoring to the provider of such program. If a bonding company, bonding agent, or probation service provider is the provider, the fees earned in the capacity of being such a provider shall be in addition to the fees allowed in Code Sections 17-6-30, 42-8-34, and 42-8-100.

(2) The fees connected with the electronic pretrial release and monitoring program shall be timely paid by a defendant as a condition of his or her ongoing participation in the electronic pretrial release and monitoring program in accordance with the terms for such programs as approved by the court. Failure to make timely payments shall constitute a violation of the terms of the

electronic pretrial release and monitoring program and shall result in the defendant's immediate return to custody.

(3) Defendants who have an extraordinary medical condition requiring ongoing medical treatment or indigent persons, as defined by the court, and who are selected by the court following the indigency standards established by the court may have such electronic pretrial release and monitoring fees paid by the sheriff with the consent of the governing authority.

(i) No defendant released under an electronic pretrial release and monitoring program under this Code section shall be deemed to be an agent, employee, or involuntary servant of the county or the electronic pretrial release and monitoring provider while so released, working, or participating in training or going to and from the defendant's place of employment or training. Neither the electronic pretrial release and monitoring provider nor the sheriff shall be civilly liable for the criminal acts of a defendant released pursuant to this Code section.

(j) Any person or corporation approved by the chief judge of the court and the sheriff in their discretion who meets the following minimum requirements may be approved to provide electronic pretrial release and monitoring services:

(1) The provider shall comply with all applicable federal, state, and local laws and all rules and regulations established by the chief judge and the sheriff in counties where the provider provides electronic pretrial release and monitoring services;

(2) The provider shall provide the chief judge and the sheriff with the name of the provider, the name of an individual who shall serve as the contact person for the provider, and the telephone number of such contact person;

(3) The provider shall promptly, not later than three business days after such change, notify the chief judge and sheriff of any changes in its address, ownership, or qualifications under this Code section;

(4) The provider shall provide simultaneous access to all records regarding all monitoring information, GPS tracking, home confinement, and victim protection regarding each person placed on electronic pretrial release and monitoring; and

(5) The provider shall act as surety for the bond.

(k) The sheriff shall maintain a list of approved providers of electronic pretrial release and monitoring services. The sheriff, in his or her discretion, may temporarily or permanently remove any provider from the list of approved providers should the provider:

(1) Fail to comply with the requirements of this Code section;

(2) Fail to monitor properly any defendant that the provider was required to monitor;

(3) Charge an excessive fee for use and monitoring of electronic monitoring equipment; or

(4) Act or fail to act in such a manner that, in the discretion of the sheriff, constitutes good cause for removal.

§ 17-6-2 - Acceptance of bail in misdemeanor cases; posting driver's license as collateral for bail

O.C.G.A. 17-6-2 (2010)

17-6-2. Acceptance of bail in misdemeanor cases; posting driver's license as collateral for bail

(a)(1) In all cases wherein a licensed driver of this state has been arrested, incarcerated, and charged with a violation of state law and where said violation is a misdemeanor, the sheriff of the county wherein the violation occurred shall be authorized, unless otherwise ordered by a judicial officer, after the individual has been incarcerated for not less than five days, to accept that individual's driver's license as collateral for any bail which has been set in the case, up to and including the amount of \$1,000.00, provided such license is not under suspension or has not expired or been revoked.

(2) The individual posting a license as collateral pursuant to this subsection shall execute an acknowledgment and agreement between the individual and the State of Georgia as bond wherein the individual agrees to appear in court to answer the charges made against the individual and acknowledges that failure to appear in court when the case is scheduled for hearing, trial, or plea shall result in a forfeiture of the individual's license through suspension by operation of law effective upon the date of the individual's scheduled appearance. The individual shall also be notified that failure to appear in court as required may result in criminal prosecution for bail

jumping as provided in Code Section 16-10-51. After execution of the agreement, except as otherwise provided by law, the license shall be returned to the individual and the original agreement shall be delivered to the prosecuting attorney for filing with the accusation, citation, or dismissal. Whenever an individual has been charged with a violation of Code Section 40-6-391, relating to driving under the influence of alcohol or drugs, then the provisions of Code Section 40-5-67 shall apply.

(3) A failure to appear by the individual who has been charged with a misdemeanor offense and who posted that individual's license as bail pursuant to this subsection shall, by operation of law, cause that individual's license to be suspended by the Department of Driver Services effective immediately, and the clerk of the court within five days after that failure to appear shall forward a copy of the agreement to the Department of Driver Services which shall enter the suspension upon the individual's driver history record. The posting of a license as provided in this subsection shall also be considered as bail for the purposes of Code Section 16-10-51. Where the original court date has been continued by the judge, clerk, or other officer of the court and there has been actual notice given to the defendant in open court or in writing by a court official or officer of the court or by mailing such notice to the defendant's last known address, then the provisions of this paragraph shall apply to the new court appearance date.

(4) A license suspended pursuant to this subsection shall only be reinstated when the individual shall pay to the Department of Driver Services a restoration fee of \$25.00 together with a certified notice from the clerk of the originating court that the case has either been disposed of or has been rescheduled and a deposit of sufficient collateral approved by the sheriff of the county wherein the charges were made in an amount to satisfy the original bail amount has been paid. The court wherein the charges are pending shall be authorized to require payment of costs by the defendant in an amount not to exceed \$100.00 to reschedule the case.

(5) Upon the trial of any individual charged with the offense of driving with a suspended license where such license was suspended as provided in this subsection, a copy of the acknowledgment and agreement executed by the individual together with certification by the clerk of the court of

the individual's failure to appear shall be prima-facie evidence of actual notice to the individual that the individual's license was suspended.

(b) In all other misdemeanor cases, sheriffs and constables shall accept bail in such reasonable amount as may be just and fair for any person or persons charged with a misdemeanor, provided that the sureties tendered and offered on the bond are approved by the sheriff in the county where the offense was committed.

§ 17-6-3 - Acceptance of recognizance bonds for military personnel

O.C.G.A. 17-6-3 (2010)

17-6-3. Acceptance of recognizance bonds for military personnel

(a) In the case of any person engaged in military service who is charged with a misdemeanor and whose bond has been fixed at not more than \$400.00 plus costs, any sheriff shall be allowed to accept, in lieu of bail, a recognizance bond executed and signed by the commanding officer of the person or the officer's lawfully delegated subordinates. Any person so charged may be taken into custody on behalf of the military installation by his commanding officer or by persons designated by the commanding officer of the military installation under the following terms and conditions:

- (1) Immediately following his release he will be returned by the military police or other designated authority directly to the military installation and delivered to the duty officer of the command to which he is attached;
- (2) He then will be restrained as appropriate in each case. The restraint will be for a minimum of 12 hours in all cases involving consumption of alcoholic beverages. He normally will be restricted to the limits of the military installation until such time as the charges are dismissed or his case has been adjudicated;
- (3) He will not be transferred, granted leave, or discharged from the military service without 36 hours' notice to the sheriff or his deputy sheriff;
- (4) He will be delivered to the sheriff or his deputy on demand; and

(5) These terms or conditions will be withdrawn only upon his posting the required bond or otherwise being released by the sheriff, his deputy, or the appropriate court.

(b) The recognizance bond shall be of the following type: In consideration of the release of (name of person charged) charged with (name or description of offense) it is agreed that the aforementioned prisoner will be restrained at the (appropriate military installation) in whatever degree considered to be appropriate by his commanding officer. This restraint will be for a minimum of 12 hours in all cases involving consumption of alcoholic beverages. It is further agreed that he will not be transferred, granted leave, or discharged from the (appropriate service) without notice to the sheriff or his deputy and will be delivered to the sheriff or his deputy upon demand. These terms and conditions will be withdrawn only upon his posting of the required personal bond or upon the release by the sheriff, his deputy, or the appropriate court. Signed

Official title

§ 17-6-4 - Authorization of posting of cash bonds generally; furnishing of receipt to person posting bond; recordation of receipt of bond on docket; disposal of unclaimed bonds

O.C.G.A. 17-6-4 (2010)

17-6-4. Authorization of posting of cash bonds generally; furnishing of receipt to person posting bond; recordation of receipt of bond on docket; disposal of unclaimed bonds

(a) Any party, defendant, accused, or other person required or permitted by law to give or post bond (or bail) as surety or security for the happening of any event or act in criminal matters may discharge the requirement by depositing cash in the amount of the bond so required with the appropriate person, official, or other depository.

(b) Any official or other person receiving any such bond shall give a receipt therefor and shall cause the fact of the receipt to be entered and recorded on the docket of the case in which it was given. If bond is given in a matter not appearing as a separate court case on a docket, a docket shall be prepared, maintained, and kept of all such transactions and the name and address of the person giving or making the bond, the date of the receipt of the bond, the name of the person

receiving the bond, the amount of the bond, and a description of the cause for giving the bond, together with any and all other information desirable concerning the bond, shall be a part of the record in that separate docket.

(c) In the event that any cash bail posted pursuant to this Code section or Code Section 17-6-5 is not later claimed by the surety on such bond after a period of seven years from the later of either the date on which the defendant was required to appear in court or the date of disposition of the case by the prosecutor or the court, including any appeal of a verdict or sentence, then the cash shall be paid into the general fund of the county having trial venue of the case, as in the case of forfeited cash bonds, provided that the officer who accepted such cash bail shall first have notified the surety, by mailing notice to such surety at the last address given by such surety, that such funds shall be forfeited if they are not claimed within 90 days following the date of mailing of such notice. Any claim by a surety for refund of a cash bail shall include acceptable documentary proof of disposition of the case from the prosecuting official or appropriate court records or such other documentation as may be acceptable to the official holding such cash bail as proof that the case has been settled.

§ 17-6-5 - Acceptance of cash bonds for violations of laws pertaining to traffic, motor vehicles, motor common carriers, motor contract carriers, road taxes on motor carriers, game, fish, boating, o

O.C.G.A. 17-6-5 (2010)

17-6-5. Acceptance of cash bonds for violations of laws pertaining to traffic, motor vehicles, motor common carriers, motor contract carriers, road taxes on motor carriers, game, fish, boating, or litter; authorization

Any sheriff, deputy sheriff, county peace officer, or other county officer charged with the duty of enforcing the laws of this state relating to (1) traffic or the operation or licensing of motor vehicles or operators; (2) the width, height, or length of vehicles and loads; (3) motor common carriers and motor contract carriers; (4) road taxes on motor carriers as provided in Article 2 of

Chapter 9 of Title 48; (5) game and fish; (6) boating; or (7) litter control who makes an arrest outside the corporate limits of any municipality of this state for a violation of said laws and who is authorized, as provided herein by a court of record having jurisdiction over such offenses, to accept cash bonds may accept a cash bond from the person arrested in lieu of a statutory bond or recognizance. No such officer shall accept a cash bond unless he is authorized to receive cash bonds in such cases by an order of the court having jurisdiction over such offenses and unless such order has been entered on the minutes of the court. Any such order may be granted, revoked, or modified by the court at any time.

§ 17-6-6 - Acceptance of cash bonds for traffic, game, fish, boating, or litter law violations --

Clerk of court or judge to provide cash receipt book; furnishing of copies of receipt;

disposition o

O.C.G.A. 17-6-6 (2010)

17-6-6. Acceptance of cash bonds for traffic, game, fish, boating, or litter law violations -- Clerk of court or judge to provide cash receipt book; furnishing of copies of receipt; disposition of original receipt and bond

Other laws to the contrary notwithstanding, when an order is passed as provided for in Code Section 17-6-5 authorizing an officer to accept cash bonds, it shall be the duty of the clerk of the court, if there is one, or, if there is no clerk, the judge passing the order to furnish the officer or officers authorized under the order with a book of blank receipts, consecutively numbered in triplicate and readily distinguishable and identifiable. The receipts shall be completed by the officers when making an arrest and accepting a cash bond so as to show the name of the person arrested, date of arrest, nature of the offense, amount of the cash bond given, and the name of the arresting officer. The arresting officer or the person receiving the cash bond shall deliver a copy of the receipt to the person arrested at the time the cash bond is given and shall file the original receipt together with the cash bond with the clerk, or judge, as the case may be, of the court having jurisdiction of the offense not later than the next succeeding business day of such clerk or

judge following the date of issuance of the receipt. The remaining copy of the receipt shall be mailed to the commissioner of public safety.

§ 17-6-7 - Acceptance of cash bonds for traffic, game, fish, boating, or litter law violations --

Liability of arresting officer for failure to account for cash receipts and bonds

O.C.G.A. 17-6-7 (2010)

17-6-7. Acceptance of cash bonds for traffic, game, fish, boating, or litter law violations --

Liability of arresting officer for failure to account for cash receipts and bonds

All receipts issued to arresting officers and all cash bonds received under Code Sections 17-6-5 and 17-6-6 shall be accounted for by the receiving officers to the court from which the receipts were issued and, in the event that any such officer fails to account for same, he shall be personally liable for any default and may be punished as for contempt by the court, in addition to any other penalties which are provided for by law in such cases.

§ 17-6-8 - Acceptance of cash bonds for traffic, game, fish, boating, or litter law violations --

Proceedings upon failure of person arrested to appear; forfeiture of bond not a bar to subsequent prosecution

O.C.G.A. 17-6-8 (2010)

17-6-8. Acceptance of cash bonds for traffic, game, fish, boating, or litter law violations --

Proceedings upon failure of person arrested to appear; forfeiture of bond not a bar to subsequent prosecution

If any person arrested for a misdemeanor arising out of a violation of the laws of this state relating to (1) traffic or the operation or licensing of motor vehicles or operators; (2) the width, height, or length of vehicles and loads; (3) motor common carriers and motor contract carriers; (4) road taxes on motor carriers as provided in Article 2 of Chapter 9 of Title 48; (5) game and fish; (6) boating; or (7) litter control gives a cash bond for his appearance as provided in Code Section 17-

6-5 and fails to appear on the date, time, and place specified in the citation or summons without legal excuse, the court may order said cash bond forfeited without the necessity of complying with the statutory procedure provided for in the forfeiture of statutory bail bonds. A judgment ordering the case disposed of and settled may be entered by the court and the proceeds shall be applied in the same manner as fines. If the court does not enter a judgment ordering the case disposed of and settled, the forfeiture of the cash bond shall not be a bar to subsequent prosecution of the person charged with the violation of such laws.

§ 17-6-9 - Acceptance of cash bonds in lieu of statutory bond or recognizance by officers or officials authorized to enforce "Comprehensive Litter Prevention and Abatement Act of 2006."

O.C.G.A. 17-6-9 (2010)

17-6-9. Acceptance of cash bonds in lieu of statutory bond or recognizance by officers or officials authorized to enforce "Comprehensive Litter Prevention and Abatement Act of 2006."

Any law enforcement officer or official of a political subdivision of this state who is authorized to enforce Part 2 of Article 2 of Chapter 7 of Title 16 and who is authorized by the judge having jurisdiction of the offense to accept cash bonds may accept a cash bond for the personal appearance at trial of the person arrested in lieu of a statutory bond or recognizance. The procedures connected with such cash bonds, including, but not limited to, duties of the arresting officer, forfeiture, distribution of proceeds, and discretion of court as to disposal of the cash bond, shall be the same procedures applicable to arrest by a sheriff for a violation of any litter law.

§ 17-6-10 - Acceptance of cash bonds for violations of ordinances or other offenses against municipalities; issuance of receipt; designated officials; effect of failure to appear in court; applicabi

O.C.G.A. 17-6-10 (2010)

17-6-10. Acceptance of cash bonds for violations of ordinances or other offenses against municipalities; issuance of receipt; designated officials; effect of failure to appear in court; applicability to municipalities having similar provisions

(a) All mayors or chief governing officers or their designated official or officials of municipalities are authorized to accept a cash bond for the personal appearance in court of any person charged with a violation of an ordinance or other offense against the municipality. The officer assessing and accepting a cash bond shall issue a receipt for the bond to the person charged with the violation.

(b) When any mayor or chief governing officer of any municipality of this state designates any municipal official to accept cash bonds under subsection (a) of this Code section, the delegation of authority shall be in writing and filed in the records of the municipality.

(c) Any person charged with a violation of an ordinance or other offense against a municipality who gives a cash bond for his personal appearance in court at a designated time and place and who fails to appear at said time and place shall forfeit the cash bond upon the call of the case for trial. It shall not be necessary for the municipality to take any further action to forfeit the cash bond. Forfeiture of a cash bond shall not be a bar to a subsequent prosecution of the accused for the violation.

(d) This Code section shall not apply to municipalities having provisions in their charters with reference to the subject matter of this Code section.

§ 17-6-11 - Display of driver's license for violation of traffic, motor vehicle, motor common carrier, motor contract carrier, or road tax on motor carrier laws in lieu of bail, recognizance, or inc

O.C.G.A. 17-6-11 (2010)

17-6-11. Display of driver's license for violation of traffic, motor vehicle, motor common carrier, motor contract carrier, or road tax on motor carrier laws in lieu of bail, recognizance, or incarceration; suspension of license; organ donation; arrest; seizure of license

(a) Any other laws to the contrary notwithstanding, any person who is apprehended by an officer for the violation of the laws of this state or ordinances relating to: (1) traffic, including any offense under Code Section 40-5-72 or 40-6-10, but excepting any other offense for which a license may be suspended for a first offense by the commissioner of driver services, any offense covered under Code Section 40-5-54, or any offense covered under Article 15 of Chapter 6 of Title 40; (2) the licensing and registration of motor vehicles and operators; (3) the width, height, and length of vehicles and loads; (4) motor common carriers and motor contract carriers; or (5) road taxes on motor carriers as provided in Article 2 of Chapter 9 of Title 48 upon being served with the official summons issued by such apprehending officer, in lieu of being immediately brought before the proper magistrate, recorder, or other judicial officer to enter into a formal recognizance or make direct the deposit of a proper sum of money in lieu of a recognizance ordering incarceration, may display his or her driver's license to the apprehending officer in lieu of bail, in lieu of entering into a recognizance for his or her appearance for trial as set in the aforesaid summons, or in lieu of being incarcerated by the apprehending officer and held for further action by the appropriate judicial officer. The apprehending officer shall note the driver's license number on the official summons. The summons duly served as provided in this Code section shall give the judicial officer jurisdiction to dispose of the matter.

(b) Upon display of the driver's license, the apprehending officer shall release the person so charged for his or her further appearance before the proper judicial officer as required by the summons. The court in which the charges are lodged shall immediately forward to the Department of Driver Services of this state the driver's license number if the person fails to appear

and answer to the charge against him or her. The commissioner of driver services shall, upon receipt of a license number forwarded by the court, suspend the driver's license and driving privilege of the defaulting person until notified by the court that the charge against the person has been finally adjudicated. Such person's license shall be reinstated if the person submits proof of payment of the fine from the court of jurisdiction and pays to the Department of Driver Services a restoration fee of \$50.00 or \$25.00 when such reinstatement is processed by mail.

(b.1) It shall be the duty of a law enforcement officer or emergency medical technician responding to the scene of any motor vehicle accident or other accident involving a fatal injury to examine immediately the driver's license of the victim to determine the victim's wishes concerning organ donation. If the victim has indicated that he or she wishes to be an organ donor, it shall be the duty of such law enforcement officer or emergency medical technician to take appropriate action to ensure, if possible, that the victim's organs shall not be imperiled by delay in verification by the donor's next of kin.

(c) Nothing in this Code section bars any law enforcement officer from arresting or from seizing the driver's license of any individual possessing a fraudulent license or a suspended license or operating a motor vehicle while his or her license is suspended, outside the scope of a driving permit, or without a license.

(d) The commissioner of driver services shall be authorized to promulgate reasonable rules and regulations to carry out the purposes of this Code section and to establish agreements with other states whereby a valid license from that state may be accepted for purposes of this Code section.

**§ 17-6-12 - Discretion of court to release person charged with crime on person's own
recognizance only; effect of failure of person charged to appear for trial**

O.C.G.A. 17-6-12 (2010)

17-6-12. Discretion of court to release person charged with crime on person's own recognizance only; effect of failure of person charged to appear for trial

(a) As used in this Code section, the term "bail restricted offense" means the person is charged with:

(1) A serious violent felony as such term is defined in Code Section 17-10-6.1; or

(2) A felony offense of:

(A) Aggravated assault;

(B) Aggravated battery;

(C) Hijacking a motor vehicle

(D) Aggravated stalking;

(E) Child molestation;

(F) Enticing a child for indecent purposes;

(G) Pimping;

(H) Robbery;

(I) Bail jumping;

(J) Escape;

(K) Possession of a firearm or knife during the commission of or attempt to commit certain crimes;

(L) Possession of firearms by convicted felons and first offender probationers;

(M) Trafficking in cocaine, illegal drugs, marijuana, or methamphetamine;

(N) Participating in criminal street gang activity;

(O) Habitual violator; or

(P) Driving under the influence of alcohol, drugs, or other intoxicating substances.

(b) A person charged with a bail restricted offense shall not be released on bail on his or her own recognizance for the purpose of entering a pretrial release program, a pretrial release and diversion program, or a pretrial intervention and diversion program as provided for in Article 4 of Chapter 18 of Title 15, or Article 5 of Chapter 8 of Title 42, or pursuant to Uniform Superior Court Rule 27, unless an elected magistrate, elected state or superior court judge enters a written order to the contrary specifying the reasons why such person should be released upon his or her own recognizance.

(c) Except as provided in subsection (b) of this Code section and in addition to other laws regarding the release of an accused person, the judge of any court having jurisdiction over a person charged with committing an offense against the criminal laws of this state shall have authority, in his or her sound discretion and in appropriate cases, to authorize the release of the person upon his or her own recognizance only.

(d) Upon the failure of a person released on his or her own recognizance only to appear for trial, if the release is not otherwise conditioned by the court, the court may summarily issue an order for his or her arrest which shall be enforced as in cases of forfeited bonds.

§ 17-6-13 - First bail for offense permitted as matter of right; subsequent bails to be in discretion of court

O.C.G.A. 17-6-13 (2010)

17-6-13. First bail for offense permitted as matter of right; subsequent bails to be in discretion of court

Except as otherwise provided in this chapter, each person who is entitled to bail under this article shall be permitted one bail for the same offense as a matter of right. Subsequent bails shall be in the discretion of the court.

§ 17-6-14 - Use of bail bond posted for preliminary hearing for trial appearance; applicability to federal proceedings; proceedings in county other than where commitment hearing held; effect where b

O.C.G.A. 17-6-14 (2010)

17-6-14. Use of bail bond posted for preliminary hearing for trial appearance; applicability to federal proceedings; proceedings in county other than where commitment hearing held; effect where bail bond required is less than bond originally posted

(a) When a person posts bail bond prior to a preliminary or commitment hearing and is later bound over to another court for trial, the original bail bond shall not terminate but shall be valid to provide for the person's appearance at the trial of the case unless the amount of the bail is set higher by lawful authority, in which case new bail bond shall be posted.

(b) Nothing contained in subsection (a) of this Code section shall apply to any proceedings in which any federal court or United States commissioner is involved. Subsection (a) of this Code section shall apply only to those instances wherein the person required to post a bail bond shall be bound over to a court or grand jury of the same county wherein the committing court exercised its jurisdiction. Subsection (a) of this Code section shall not apply to those instances where a person is bound over to two or more courts or grand juries.

(c) Nothing contained in subsection (a) of this Code section shall be construed to require an additional bail bond in the event the court to which the person has been committed requires a lesser bail bond than the bond originally posted.

§ 17-6-15 - Necessity for commitment where bail tendered and accepted; opportunity for bail; receipt of bail after commitment and imprisonment; imprisonment of person who offers bond for amount of b

O.C.G.A. 17-6-15 (2010)

17-6-15. Necessity for commitment where bail tendered and accepted; opportunity for bail; receipt of bail after commitment and imprisonment; imprisonment of person who offers bond for amount of bail set; effect upon common-law authority of court

(a) After arrest, if bail is tendered and accepted, no regular commitment need be entered, but a simple memorandum of the fact of bail being taken shall be sufficient.

(b)(1) A reasonable opportunity shall be allowed the accused person to give bail; and, even after commitment and imprisonment, the committing court may order the accused person brought before it to receive bail. No person shall be imprisoned under a felony commitment when bail has

been fixed, if the person tenders and offers to give bond in the amount fixed, with sureties acceptable to the sheriff of the county in which the alleged offense occurred; provided, however, the sheriff shall publish and make available written rules and regulations defining acceptable sureties and prescribing under what conditions sureties may be accepted. If the sheriff determines that a professional bonding company is an acceptable surety, the rules and regulations shall require, but shall not be limited to, the following:

(A) Complete documentation showing the composition of the company to be an individual, a trust, or a group of individuals, whether or not formed as a partnership or other legal entity, or a corporation or a combination of individuals, trusts, and corporations;

(B) Complete documentation for all employees, agents, or individuals authorized to sign or act on behalf of the bonding company;

(C) Complete documentation showing that the company holds a valid business license in the jurisdiction where bonds will be written;

(D) Fingerprints and background checks of every individual who acts as a professional bondsperson as defined in Code Section 17-6-50 for the professional bonding company seeking approval;

(E) Establishment of a cash escrow account or other form of collateral in a sum and upon terms and conditions approved by the sheriff;

(F) Establishment of application, approval, and reporting procedures for the professional bonding company deemed appropriate by the sheriff which satisfy all rules and regulations required by the laws of this state and the rules and regulations established by the sheriff;

(G) Applicable fees to be paid by the applicant to cover the cost of copying the rules and regulations and processing and investigating all applications and all other costs relating thereto; or

(H) Additional criteria and requirements for approving and regulating bonding companies to be determined at the discretion of the sheriff.

(2) This Code section shall not be construed to require a sheriff to accept a professional bonding company or bondsperson as a surety.

(3) This Code section shall not be construed to prevent the posting of real property bonds and the sheriff may not prohibit the posting of property bonds. Additional requirements for the use of real

property may be determined at the discretion of the sheriff. The sheriff shall not prohibit a nonresident of the county from posting a real property bond if such real property is located in the county in which it is offered as bond and if such property has sufficient unencumbered equity to satisfy the sheriff's posted rules and regulations as to acceptable sureties.

(c) This Code section shall not abrogate or repeal the common-law authority of the judge having jurisdiction.

§ 17-6-16 - Entry of memorandum on warrant after waiver of commitment hearing and tender of bail

O.C.G.A. 17-6-16 (2010)

17-6-16. Entry of memorandum on warrant after waiver of commitment hearing and tender of bail

If the accused person waives a commitment hearing and tenders bail, a memorandum of these facts shall be entered on the warrant by the person authorized to accept bail; and this waiver may be done by the person charged before arrest and, when done, shall operate as a supersedeas.

§ 17-6-17 - Bond or recognizance to be conditioned on appearance of person accused of crime at arraignment; proceedings upon failure of accused to appear

O.C.G.A. 17-6-17 (2010)

17-6-17. Bond or recognizance to be conditioned on appearance of person accused of crime at arraignment; proceedings upon failure of accused to appear
In addition to all other requirements prescribed for appearance bonds or recognizances, the appearance bond or recognizance given by a person accused of the commission of a crime shall be conditioned upon the person presenting himself before the court at the time fixed for his arraignment. Upon failure of a person charged with a penal offense to appear before the court at the time fixed for his arraignment, the prosecuting attorney may proceed to forfeit the bond or recognizance.

§ 17-6-18 - Amendment of bonds and giving of new security

O.C.G.A. 17-6-18 (2010)

17-6-18. Amendment of bonds and giving of new security

All bonds taken under requisition of law in the course of a judicial proceeding may be amended and new security given if necessary.

ARTICLE 2 - SURETIES**PART 1 - GENERAL PROVISIONS****§ 17-6-30 - Fees of sureties**

O.C.G.A. 17-6-30 (2010)

17-6-30. Fees of sureties

(a) Sureties on criminal bonds in any court shall not charge or receive more than 12 percent of the face amount of the bond set in the amount of \$10,000.00 or less, which amount includes the principal and all applicable surcharges, and shall not charge or receive more than 15 percent of the face amount of the bond set in an amount in excess of \$10,000.00, which amount includes the principal and all applicable surcharges, as compensation from defendants or from anyone acting for defendants.

(b) Any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor.

§ 17-6-31 - Surrender of principal by surety; forfeiture of bond; death of principal

O.C.G.A. 17-6-31 (2010)

17-6-31. Surrender of principal by surety; forfeiture of bond; death of principal

(a) When the court is not in session, a surety on a bond may surrender the surety's principal to the

sheriff or to the responsible law enforcement officer of the jurisdiction in which the case is pending in order to be released from liability.

(b) When the court is in session, a surety on a bond may surrender the surety's principal in open court.

(c) The principal shall also be considered surrendered by plea of guilty or nolo contendere to the court or if the principal is present in person when the jury or judge, if tried without a jury, finds the principal guilty or if the judge dead docket the case prior to entry of judgment and, upon such plea or finding of guilty or dead docketing, the surety shall be released from liability.

(d)(1) Furthermore, the surety shall be released from liability if, prior to entry of judgment, there is:

- (A) A deferred sentence;
- (B) A presentence investigation;
- (C) A court ordered pretrial intervention program;
- (D) A court ordered educational and rehabilitation program;
- (E) A fine;
- (F) A dead docket; or
- (G) Death of the principal.

(2) Furthermore, the surety may be released from liability at the discretion of the court if:

- (A) The principal used a false name when he or she was bound over and committed to jail or a correctional institution and was subsequently released from such facility unless the surety knew or should have known that the principal used a false name; and
- (B) The surety shows to the satisfaction of the court that he or she acted with due diligence and used all practical means to secure the attendance of the principal before the court.

(e) If the prosecuting attorney does not try the charges against a defendant within a period of two years in the case of felonies and one year in the case of misdemeanors after the date of posting

bond, then judgment rendered after such period may not be enforced against the surety on the bond and the surety shall thereafter be relieved of liability on the bond. This subsection shall not apply where the prosecuting attorney's failure to try the charges is due to the fault of the principal.

(f) No judgment shall be rendered on any appearance bond if it is shown to the satisfaction of the court that the surety was prevented from returning the principal to the jurisdiction because such principal was on active military duty.

PART 2 - PROFESSIONAL BONDSMEN

§ 17-6-50 - Persons deemed professional bondsmen; criminal background investigation information to be provided to clerk of court

O.C.G.A. 17-6-50 (2010)

17-6-50. Persons deemed professional bondsmen; criminal background investigation information to be provided to clerk of court

(a) Bondsmen or persons who hold themselves out as signers or sureties of bonds for compensation are declared to be professional bondsmen.

(b) A professional bondsperson is one who holds himself or herself out as a signer or surety of bonds for compensation who must meet the following qualifications:

- (1) Is 18 years of age or over;
- (2) Is a resident of the State of Georgia for at least one year before making application to write bonds;
- (3) Is a person of good moral character and has not been convicted of a felony or any crime involving moral turpitude; and
- (4) Is approved by the sheriff and remains in good standing with respect to all applicable federal, state, and local laws and all rules and regulations established by the sheriff in the county where the bonding business is conducted.

(c) The sheriff of the county in which the bonding business is conducting business or is seeking approval to conduct business shall initiate a criminal background investigation to ensure that a professional bondsman has not been convicted of a felony or a crime involving moral turpitude in this state or any other jurisdiction. The sheriff shall require the professional bondsman to furnish two full sets of fingerprints which the sheriff shall submit to the Georgia Crime Information Center. The center shall submit a full set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(d) It shall be the duty of each professional bondsman approved by the sheriff in accordance with this part to provide the clerk of each court before which one or more of such professional bondsman's principals are required to appear with the business name, complete address, telephone number, and e-mail address of the chief operating officer or his or her designee of such professional bondsman for the purpose of receiving any notices that may be sent pursuant to Code Section 17-6-71. Each professional bondsman shall have the duty to keep such information current and accurate. It shall be the duty of each clerk of court to keep, maintain, and update such information as provided by a professional bondsman.

§ 17-6-50.1 - Continuing education programs for professional bondsmen; fee; annual requirement; certificate of completion

O.C.G.A. 17-6-50.1 (2010)

17-6-50.1. Continuing education programs for professional bondsmen; fee; annual requirement; certificate of completion

(a) The Georgia Association of Professional Bondsmen shall approve continuing education programs offered by professional associations, educational institutions, government agencies, and others as deemed appropriate for professional bondsmen to attend.

(b) The fee for continuing education programs for professional bondsmen shall not exceed \$125.00 annually.

(c) Professional bondsmen shall be required to obtain eight hours of continuing education annually.

(d) On or before January 31 of each year, each professional bondsman shall submit a certificate of completion of eight hours of approved continuing education to the individual or department which is responsible for issuing bail bonds for each jurisdiction in which he or she is doing business.

§ 17-6-51 - Suggesting employment of attorneys during negotiations regarding signing of bond or any time subsequent thereto

O.C.G.A. 17-6-51 (2010)

17-6-51. Suggesting employment of attorneys during negotiations regarding signing of bond or any time subsequent thereto

Professional bondsmen, their agents, or representatives shall not suggest or advise the employment of or name for employment any attorney or attorneys to represent a defendant, during the negotiations for the bondsmen to sign the bond or subsequent thereto.

§ 17-6-52 - Soliciting business or loitering around jails or courts to solicit business; giving of advice by law enforcement officers as to services of professional bondsmen

O.C.G.A. 17-6-52 (2010)

17-6-52. Soliciting business or loitering around jails or courts to solicit business; giving of advice by law enforcement officers as to services of professional bondsmen

Professional bondsmen, their agents, or employees shall not solicit business as bondsmen or loiter about or around jails, places where prisoners are confined, or the courts for the purpose of

engaging in or soliciting business as such bondsmen. No state or municipal law enforcement officer or keeper or employee of a penal institution may suggest to or give advice to, in any manner whatsoever, any prisoner regarding the services of a professional bondsman to write a criminal bond for the appearance of a prisoner in any court at any time.

§ 17-6-53 - Giving advice or directions to defendants who are principals in bonds regarding defense or disposition of cases

O.C.G.A. 17-6-53 (2010)

17-6-53. Giving advice or directions to defendants who are principals in bonds regarding defense or disposition of cases

Professional bondsmen, their agents, or employees shall not advise defendants who are principals in bonds signed by them or give any directions in the defense or disposition of the cases in which they sign bonds.

§ 17-6-54 - No further compensation after becoming surety; when sum received to be returned to defendant; right to surrender defendant and to keep sum paid when defendant forfeits

O.C.G.A. 17-6-54 (2010)

17-6-54. No further compensation after becoming surety; when sum received to be returned to defendant; right to surrender defendant and to keep sum paid when defendant forfeits

(a) No professional bondsman or his or her agents or employees who receive compensation for becoming the surety on a criminal bond shall thereafter receive any other sum in the case. If the surety surrenders a defendant into the custody of the court, the sheriff, or another law enforcement officer in the jurisdiction where the bond was made before final disposition of the case, the surety is required to return to the principal the compensation received for signing the bond as surety if such surrender of the defendant is for reasons other than:

(1) The defendant's arrest for a crime other than a traffic violation or misdemeanor;

- (2) The defendant's cosigner attests in writing the desire to be released from the bond;
- (3) The defendant fails to provide to the court and the surety the defendant's change of address;
- (4) The defendant fails to pay any fee due to the surety after being notified by certified mail or statutory overnight delivery that the same is past due;
- (5) The defendant fails to notify the court and the surety upon leaving the jurisdiction of the court;
- or
- (6) The defendant provides false information to the surety.

(b) In the event of a forfeiture on the bond by the defendant, the surety shall have the right to surrender into custody the defendant who is the principal on the bond without returning any compensation paid by the defendant for the signing of the bond.

§ 17-6-55 - Penalty for violation of part

O.C.G.A. 17-6-55 (2010)

17-6-55. Penalty for violation of part

Any person who violates any Code section in this part shall be guilty of a misdemeanor.

§ 17-6-56 - Bail recovery agents; requirements; registration

O.C.G.A. 17-6-56 (2010)

17-6-56. Bail recovery agents; requirements; registration

(a) As used in this Code section and Code Sections 17-6-57 and 17-6-58, the term "bail recovery agent" means any person who performs services or takes action for the purpose of apprehending the principal on a bail bond granted in this state or capturing a fugitive who has escaped from bail in this state for gratuity, benefit, or compensation.

(b) A bail recovery agent must be a United States citizen, 25 years of age or older, and must obtain a license pursuant to Code Section 16-11-129.

(c) Any sheriff of a county shall require any professional bondsman who is a resident of or doing business in the sheriff's county to register his or her bail recovery agents in that county. The professional bondsman must submit to the sheriff, in a form and manner to be determined by the sheriff, a list of all bail recovery agents whose services may be used by such bondsman.

§ 17-6-56.1 - Continuing education programs for bail recovery agents; fee; annual requirement; certificate of completion

O.C.G.A. 17-6-56.1 (2010)

17-6-56.1. Continuing education programs for bail recovery agents; fee; annual requirement; certificate of completion

(a) The Georgia Association of Professional Bondsmen shall approve continuing education programs offered by professional associations, educational institutions, government agencies, and others as deemed appropriate for bail recovery agents to attend.

(b) The fee for continuing education programs for bail recovery agents shall not exceed \$125.00 annually.

(c) Bail recovery agents shall be required to obtain eight hours of continuing education annually.

(d) On or before January 31 of each year, each bail recovery agent shall submit a certificate of completion of eight hours of approved continuing education to the individual or department which is responsible for issuing bail bonds for each jurisdiction in which he or she is doing business.

§ 17-6-57 - Bail recovery agents; notification to local police; out-of-state agents; identification card

O.C.G.A. 17-6-57 (2010)

17-6-57. Bail recovery agents; notification to local police; out-of-state agents; identification card

(a) Any bail recovery agent who enters any local police jurisdiction in pursuit of and for the purpose of apprehending the principal on a bail bond or capturing a fugitive or engaging in surveillance of such principal or fugitive shall, prior to taking any action in his or her capacity as a bail recovery agent in that local police jurisdiction, notify by facsimile transmission or telephone the sheriff and police chief of the local police jurisdiction in which the surveillance, apprehension, or capture is to take place unless it is to take place in public.

(b) An out-of-state bail recovery agent shall submit proof to the sheriff or police chief that he or she is qualified to be a bail recovery agent under the requirements of his or her home state. An out-of-state bail recovery agent shall deliver a certified copy of the bail bond or of the forfeiture or failure to appear to the sheriff or chief of police. Such out-of-state bail recovery agent, if not qualified in his or her home state or if his or her home state does not require bail recovery agents to be qualified, shall employ a Georgia bail recovery agent who is lawfully registered pursuant to this part.

(c) Each professional bondsman shall issue a uniform identification card to each bail recovery agent registered by the professional bondsman which identification card shall include the bail recovery agent's name, height, weight, address, photograph, and signature. The identification card shall also include the signature of the professional bondsman who has registered the bail recovery agent as required in subsection (c) of Code Section 17-6-56. A bail recovery agent shall be required to carry such identification card while acting in the capacity as a bail recovery agent.

§ 17-6-58 - Penalty for violation; liability

O.C.G.A. 17-6-58 (2010)

17-6-58. Penalty for violation; liability

(a) Any bail recovery agent who fails to register with the local sheriff or who is otherwise unqualified to act as a bail recovery agent but who nonetheless attempts to apprehend or capture a principal on a bail bond or a fugitive or who succeeds in apprehending or capturing such person

shall be guilty of a misdemeanor upon conviction for the first violation and shall be guilty of a felony upon conviction for the second and all subsequent violations punishable by imprisonment for not less than one nor more than five years.

(b) Any bondsman or bonding company owner, surety, or agent who hires a bail recovery agent who is not qualified to act as a bail recovery agent pursuant to Code Sections 17-6-56 and 17-6-57 shall be guilty of a misdemeanor upon conviction for the first violation and shall be guilty of a felony upon conviction for the second and all subsequent violations punishable by imprisonment for not less than one nor more than five years, or a fine of not more than \$10,000.00, or both.

(c) No bail recovery agent shall wear, carry, or display any uniform, badge, shield, card, or other item with any printing, insignia, or emblem that purports to indicate that such bail recovery agent is an employee, officer, or agent of any state or federal government or any political subdivision of any state or federal government. A violation of this subsection shall be punished upon conviction as a felony punishable by imprisonment for not less than one nor more than five years, or a fine of not more than \$10,000.00, or both.

(d) A bail recovery agent who enters the wrong property, causes damage to said property, or causes injury to anyone thereon is liable for all damages.

ARTICLE 3 - PROCEEDINGS FOR FORFEITURE OF BONDS OR RECOGNIZANCES

§ 17-6-70 - When forfeiture occurs

O.C.G.A. 17-6-70 (2010)

17-6-70. When forfeiture occurs

(a) A bond forfeiture occurs at the end of the court day upon the failure of appearance of a principal of any bond or recognizance given for the appearance of that person.

(b) An appearance bond shall not be forfeited unless the clerk of the court gave the surety at least 72 hours' written notice, exclusive of Saturdays, Sundays, and legal holidays, before the time of the required appearance of the principal. Notice shall not be necessary if the time for appearance is within 72 hours from the time of arrest, provided the time for appearance is stated on the bond, or where the principal is given actual notice in open court.

§ 17-6-70.1 - Proceedings for forfeiture of bonds or recognizances generally

O.C.G.A. 17-6-70.1 (2010)

17-6-70.1. Proceedings for forfeiture of bonds or recognizances generally

Repealed by Ga. L. 1983, p. 1203, 1, effective March 29, 1983.

[Repealed]

§ 17-6-71 - Execution hearing on failure of principal to appear

O.C.G.A. 17-6-71 (2010)

17-6-71. Execution hearing on failure of principal to appear

(a) The judge shall, at the end of the court day, upon the failure of the principal to appear, forfeit the bond and order an execution hearing not sooner than 120 days but not later than 150 days after such failure to appear. Notice of the execution hearing shall be served by the clerk of the court in which the bond forfeiture occurred within ten days of such failure to appear by certified mail or by electronic means as provided in Code Section 17-6-50 to the surety at the address listed on the bond or by personal service to the surety within ten days of such failure to appear at its home office or to its designated registered agent. Service shall be considered complete upon the mailing of such certified notice. Such ten-day notice shall be adhered to strictly. If notice of the execution hearing is not served as specified in this subsection, the surety shall be relieved of liability on the appearance bond.

(b) If at the execution hearing it is determined that judgment should be entered, the judge shall so order and a writ of fieri facias shall be filed in the office of the clerk of the court where such judgment is entered. The provisions of this subsection shall apply to all bail bonds, whether returnable to superior court, state court, probate court, magistrate court, or municipal court.

§ 17-6-72 - Conditions not warranting forfeiture of bond for failure to appear; remission of forfeiture

O.C.G.A. 17-6-72 (2010)

17-6-72. Conditions not warranting forfeiture of bond for failure to appear; remission of forfeiture

(a) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown to the satisfaction of the court by the written statement of a licensed physician that the principal on the bond was prevented from attending by some mental or physical disability.

(b) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown to the satisfaction of the court that the principal on the bond was prevented from attending because he or she was detained by reason of arrest, sentence, or confinement in a penal institution or jail in the State of Georgia, or so detained in another jurisdiction, or because he or she was involuntarily confined or detained pursuant to court order in a mental institution in the State of Georgia or in another jurisdiction. An official written notice of the holding institution in which the principal is being detained or confined shall be considered proof of the principal's detention or confinement and such notice may be sent from the holding institution by mail or delivered by hand or by facsimile machine. Upon the presentation of such written notice to the clerk of the proper court, the prosecuting attorney, and the sheriff or other law enforcement officer having jurisdiction over the case, along with a letter of intent to pay all costs of returning the principal to the jurisdiction of the court, such notice and letter shall serve as the surety's request for a detainer or hold to be placed on the principal. Should there be a failure to place a detainer or hold within 15 days, excluding Saturdays, Sundays, and legal holidays, and after such presentation of such notice and

letter of intent to pay costs, the surety shall then be relieved of the liability for the appearance bond without further order of the court.

(c) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown to the satisfaction of the court that prior to the entry of the judgment on the forfeiture the principal on the bond is in the custody of the sheriff or other responsible law enforcement agency. An official written notice of the holding institution in which the principal is being detained or confined shall be considered proof of the principal's detention or confinement and such notice may be sent from the holding institution by mail or delivered by hand or by facsimile machine. Upon presentation of such written notice to the clerk of the proper court, the prosecuting attorney, and the sheriff or other law enforcement officer having jurisdiction over the case along with a letter of intent to pay all costs of returning the principal to the jurisdiction of the court, such notice and letter shall serve as the surety's request for a detainer or hold to be placed against the principal. Should there be a failure to place a detainer or hold within 15 days, excluding Saturdays, Sundays, and legal holidays, and after presentation of such notice and letter of intent to pay costs, the surety shall then be relieved of the liability for the appearance bond without further order of the court.

(c.1) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown to the satisfaction of the court that the principal on the bond was prevented from attending because he or she was deported by federal authorities. An official written notice of such deportation from a federal official shall be considered proof of the principal's deportation.

(d) In cases in which paragraph (3) of this subsection is not applicable, on application filed within 120 days from the payment of judgment, the court shall order remission under the following conditions:

(1) Provided the bond amount has been paid within 120 days after judgment and the delay has not prevented prosecution of the principal and upon application to the court with prior notice to the prosecuting attorney of such application, said court shall direct remission of 95 percent of the bond amount remitted to the surety if the surety locates the principal in the custody of the sheriff

in the jurisdiction where the bond was made or in another jurisdiction causing the return of the principal to the jurisdiction where the bond was made, apprehends, surrenders, or produces the principal, if the apprehension or surrender of the principal was substantially procured or caused by the surety, or if the location of the principal by the surety caused the adjudication of the principal in the jurisdiction in which the bond was made. Should the surety, within two years of the principal's failure to appear, locate the principal in the custody of the sheriff in the jurisdiction where the bond was made or in another jurisdiction causing the return of the principal to the jurisdiction where the bond was made, apprehend, surrender, or produce the principal, if the apprehension or surrender of the principal is substantially procured or caused by the surety, or if the location of the principal by the surety causes the adjudication of the principal in the jurisdiction in which the bond was made, the surety shall be entitled to a refund of 50 percent of the bond amount. The application for 50 percent remission shall be filed no later than 30 days following the expiration of the two-year period following the date of judgment;

(2) Remission shall be granted upon condition of the payment of court costs and of the expenses of returning the principal to the jurisdiction by the surety; or

(3) If, within 120 days after judgment, the surety surrenders the principal to the sheriff or responsible law enforcement officer, or said surrender has been denied by the sheriff or responsible law enforcement officer, or surety locates the principal in custody in another jurisdiction, the surety shall only be required to pay costs and 5 percent of the face amount of the bond, which amount includes all surcharges. If it is shown to the satisfaction of the court, by the presentation of competent evidence from the sheriff or the holding institution, that said surrender has been made or denied or that the principal is in custody in another jurisdiction or that said surrender has been made and that 5 percent of the face amount of the bond and all costs have been tendered to the sheriff, the court shall direct that the judgment be marked satisfied and that the writ of execution, fi. fa., be canceled.

§ 17-6-73 - Address of principal and surety on bond or recognizance

17-6-73. Address of principal and surety on bond or recognizance

Every bond or recognizance given to secure the appearance of any person in any criminal proceeding shall have entered thereon the mailing address of the principal and each surety.

ARTICLE 4 - BONDS FOR GOOD BEHAVIOR AND TO KEEP THE PEACE

PART 1 - BONDS FOR GOOD BEHAVIOR

§ 17-6-90 - Issuance of a warrant; requirement of bond; hearing; payment of court costs by affiant

O.C.G.A. 17-6-90 (2010)

17-6-90. Issuance of a warrant; requirement of bond; hearing; payment of court costs by affiant

(a) Any judicial officer authorized to hold a court of inquiry may, upon the information of others under oath or upon his or her own motion, issue a warrant against any person in the county whose conduct is such as to justify the belief that the safety of any one or more persons in the county or the peace or property of the same is in danger of being injured or disturbed thereby. Upon the return of the warrant and upon sufficient cause being shown, the court may require from the person a bond with sureties for such person's good behavior until the next term of the superior court of the county or for a period of up to six months, whichever is greater. Any person against whom a warrant issues must, within 24 hours, be brought for a hearing before the court which issued the warrant or be released on bond by the sheriff, the amount and reasonable conditions of such bond to be set by the court which issued the warrant.

(b) All bonds posted under this Code section shall be returnable in the court which issued the warrant and shall be amendable in the court's discretion. Within seven days after being released on bond by the sheriff, the person shall be entitled to a hearing before the court which issued the warrant. The court may, on its own motion, require a hearing.

(c) If it is determined at a hearing that there was not sufficient cause for the warrant to have been issued, the affiant who caused the warrant to be issued shall pay all court costs.

§ 17-6-91 - Right of person to require bond against spouse

O.C.G.A. 17-6-91 (2010)

17-6-91. Right of person to require bond against spouse

A person may require a bond for good behavior against the spouse of such person.

§ 17-6-92 - Institution of action for breach of bond; disposition of recovery

O.C.G.A. 17-6-92 (2010)

17-6-92. Institution of action for breach of bond; disposition of recovery

For a violation of a bond posted pursuant to Code Section 17-6-90, an action may be brought at the instance of any person in the county. The recovery on the bond shall be paid to the person bringing the action.

§ 17-6-93 - Extension of bond by court; right of sureties to surrender principal

O.C.G.A. 17-6-93 (2010)

17-6-93. Extension of bond by court; right of sureties to surrender principal

A bond for good behavior posted pursuant to Code Section 17-6-90 may be extended from term to term by the superior or state court, as the case may be, or for additional 60 day periods by the court which issued the warrant, whichever is greater, in its discretion. The sureties on the bond shall have the privilege of surrendering their principal as in other cases of bail.

§ 17-6-94 - Violation of bond; contempt of court

O.C.G.A. 17-6-94 (2010)

17-6-94. Violation of bond; contempt of court

Upon oral or written complaint by the injured party or upon motion by the prosecuting attorney, the court may, in its discretion, issue a rule for contempt against a party who violates the bond posted pursuant to Code Section 17-6-90. Upon hearing the rule, if the court finds that there has been a violation of the bond, the court may, in addition to the remedy provided in Code Section 17-6-92, impose a sentence for contempt of court. If it should appear to the court from the evidence and the court finds that the violation of the bond was provoked or brought about by the conduct of the prosecuting witness, the witness may be ruled for contempt of court and sentenced as provided by law.

PART 2 - BONDS TO KEEP THE PEACE**§ 17-6-110 - Issuance of warrant; requirement of bond; hearing; payment of costs by affiant**

O.C.G.A. 17-6-110 (2010)

17-6-110. Issuance of warrant; requirement of bond; hearing; payment of costs by affiant

(a) Upon the information of any person, under oath, that he is in fear of bodily harm to himself or his family, or of violent injury to his property, from another person, any judicial officer authorized to hold a court of inquiry may issue his warrant requiring the arrest of such other person. If, after the return of the warrant and upon hearing the evidence of both parties, the court is satisfied that probable cause for such fear exists, the court may require the accused to give bond, with good security, to keep the peace as against the person, family, or property of the affiant. If the accused fails to give bond, the court shall commit him to jail. Any person against whom a warrant issues must, within 24 hours, be brought for a hearing before the court which issued the warrant or be released on bond by the sheriff.

(b) Nothing in this Code section shall prohibit the sheriff from releasing the person at any time prior to the hearing after posting bond. The amount of the bond shall be set by the sheriff but in no event shall the amount set by the sheriff exceed \$1,000.00. Such bond shall contain the same conditions as a bond required after a hearing by the court of inquiry, except that, in counties in which a state court is established, all bonds posted under this Code section shall be returnable in the state court rather than in the superior court. Within five days after being released on bond by the sheriff, the person shall be entitled to a hearing before the court of inquiry.

(c) If it is determined at the hearing that there was not sufficient cause for the warrant to have been issued, the affiant who caused the warrant to be issued shall pay all court costs.

(d) A judicial officer shall not be required to issue the warrant provided for in this Code section until the person requesting the issuance of the warrant deposits with the judicial officer a sum, not to exceed \$12.00, to be applied against the total cost in the proceedings. At the termination of the proceedings, any part of the deposit remaining because of dismissal or because the costs are assessed against another party shall be refunded to the depositor. If the person requesting the issuance of the warrant is unable to pay any deposit, fee, or other cost which would normally be required in the court and subscribes an affidavit to the effect that because of his indigence he is unable to pay these costs, the person shall be relieved from paying the costs and his rights shall be the same as if he had paid the costs.

§ 17-6-111 - Right of person to require bond against spouse

O.C.G.A. 17-6-111 (2010)

17-6-111. Right of person to require bond against spouse

A person may require a bond to keep the peace against the spouse of such person.

§ 17-6-112 - Actions constituting violations of bond; right of action for breach of bond generally; imposition of additional penalty for contempt of court; finding of prosecuting witness in contempt

O.C.G.A. 17-6-112 (2010)

17-6-112. Actions constituting violations of bond; right of action for breach of bond generally; imposition of additional penalty for contempt of court; finding of prosecuting witness in contempt

(a) Actual violence, a threat of violence, or any other act intended and calculated to excite alarm or to provoke a breach of the peace shall be a violation of the bond posted pursuant to Code Section 17-6-110. For every such act, the party at whose instance the bond was required shall have a right of action.

(b) In counties having a population of not less than 200,000 nor more than 250,000 according to the United States decennial census of 1950 or any future such census in which there is located a municipal court, upon oral or written complaint by the injured party, the court may in its discretion issue a rule for contempt against the offending defendant. Upon hearing the rule, if the court finds that there has been a violation of the bond, the court may, in addition to the remedy provided in subsection (a) of this Code section, impose a sentence for contempt of court. If it should appear to the court from the evidence and the court finds that the breach of the peace was provoked or brought about by the conduct of the prosecuting witness, the witness may be ruled for contempt of court and sentenced as provided by law.

§ 17-6-113 - Effect of provoking breach of bond

O.C.G.A. 17-6-113 (2010)

17-6-113. Effect of provoking breach of bond

If the person who required the bond provokes a violation thereof by the person who posted the bond, no recovery shall be had.

§ 17-6-114 - Discharge or extension of bond by court

O.C.G.A. 17-6-114 (2010)

17-6-114. Discharge or extension of bond by court

The superior or state court, as the case may be, may discharge the bond at any time unless a motion is made to extend it, accompanied by evidence to satisfy the court of the necessity of the extension.

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