

May 17, 2000

**S 1267. MODERNIZE BAIL BOND FORFEITURES. TO MODERNIZE BAIL BOND FORFEITURE PROCEEDINGS, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S BAIL BOND LAWS COMMITTEE.** Rewrites GS 15A-540 to provide (1) that surety must follow procedure set out in GS 58-70-20 to surrender defendant under a bond before breach and (2) that to surrender defendant under a bond after breach of condition of the bond; surety may arrest defendant for purpose of returning him to sheriff of county in which bonded to appear or sheriff of county in which bonded; if defendant is already in custody of any sheriff, surety may surrender defendant by appearing in person and informing sheriff that surety wishes to surrender the defendant. Requires surety who wishes to surrender defendant to sheriff after breach to give certified copy of bail bond to sheriff. Upon surrender after breach, requires sheriff without unnecessary delay to take defendant before a judicial official for setting of conditions of pretrial release. Requires judicial official to impose any conditions set by the court in an order for arrest for defendant's failure to appear and if no conditions have been set, to set bond in an amount at least double the amount of previous bond. Requires judicial official must indicate on the release order that defendant was surrendered after failing to appear under a prior release order. Repeals GS 15A-544 and replaces it with new GS 15A-544.1 to -544.8 setting out procedure for forfeiture of criminal appearance bonds. Provides that each bail bond must include name and mailing address of defendant; name and address of any accommodation bondsman executing the bail bond; names and license number of any professional bondsman executing the bond as surety and name and license number of any runner signing for professional bondsman; and name of insurance company executing bond as surety and name, license number, and power of appointment number of the bail agent executing the bail bond on behalf of insurance company. If defendant fails to appear before the court as required, the court enters a provisional judgment against the defendant and each surety on the bond; court gives notice by first class mail to defendant and sureties. Allows court to set aside provisional judgment without hearing if defendant's failure to appear is set aside and order for arrest issued for that failure to appear is recalled, if charges against defendant for which bonded have been finally disposed of other than by dismissal with leave, if defendant has been surrendered by surety, or if defendant has been served with Order for Arrest for the Failure to Appear on the criminal charge in the case in question and after setting aside provisional judgment, defendant's further appearances shall continue to be secured by that bail bond unless court orders otherwise. Sets out procedure for hearing to set aside provisional judgment based on written motion by surety within 150 days after notice of provisional judgment was given. Provides that court may hear only one motion to set aside provisional judgment and prohibits setting aside provisional judgment of bond when surety had notice before executing a bail bond that defendant had already failed to appear on two or more prior occasions. Provides that provisional judgment becomes final on 150<sup>th</sup> day after notice if it has not been set aside or if no motion to set aside is pending and requires clerk to docket judgment and issue writ of execution. Prohibits sureties named in final judgment from executing bonds in county in which judgment is docketed until judgment is satisfied. Allows court to set aside final judgment for extraordinary circumstances.

Amends GS 24-5(a1) to provide that judgment on penal bond draws interest at the legal rate from date of docketing rather than date of entry.

Appropriates \$225,000 to Judicial Department for temporary personnel to implement act.

Effective January 1, 2001.

**Intro. by Robinson and Odom.**

Ref. to Judiciary II	GS 15A, 58, 24
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