

March 23, 2005

**S 797. BAIL BONDS/FORFEITURES & REMITTANCES.** *TO PROVIDE THAT FORFEITURE OF A BAIL BOND SHALL BE SET ASIDE IF THE DEFENDANT FOR WHOM THE BOND WAS POSTED WAS INCARCERATED ANYWHERE AT THE TIME OF THE FAILURE TO APPEAR, TO PROVIDE THAT BOND SHALL NOT BE FORFEITED UNLESS THE SURETY OR BAIL AGENT HAD ACTUAL KNOWLEDGE THAT THE DEFENDANT HAD FAILED TO APPEAR ON TWO OR MORE OCCASIONS ON THE SAME CHARGE, AND TO PROVIDE THAT BOND SHALL BE REMITTED IF THE DEFENDANT RECEIVES A PRAYER FOR JUDGMENT CONTINUED OR DEFERRED PROSECUTION.* Amends GS 15A-544.5 to (1) expand a reason for forfeiture set-aside from incarceration within NC to incarceration anywhere, (2) require actual knowledge (was, notice or actual knowledge) of prior failures to appear before set-aside of forfeiture is prohibited and define actual knowledge, and (3) require that prior failures to appear have been on the same charge. Amends GS 15A-547.1 as title indicates to add prayer for judgment continued and deferred prosecution as circumstances under which bond is remitted. Effective December 1, 2005, and applies to bail bonds posted for offenses committed on or after that date.

**Intro. by Thomas.**

Ref. to Judiciary II

GS 15A

May 31, 2005

**S 797. BAIL BONDS/FORFEITURES & REMITTANCES.** Intro. 3/23/05. Senate committee substitute makes the following changes to 1st edition. Amends GS 15A-544.5(6) to provide that if defendant was incarcerated, arrested, sentenced, or confined in a unit of the Department of Correction, a detention facility, or a unit of the Federal Bureau of Prisons, the forfeiture of a bail bond may be set aside (original bill provided for set aside if defendant was incarcerated anywhere). Enacts new GS 15A-544.5(7) to prohibit the entry of final judgment on a bond forfeiture if the defendant was prevented from appearing due to arrest, sentence, or confinement in a penal institution or jail or because defendant was confined in a medical or mental institution in NC or another jurisdiction and new GS 15A-544.5(8) to prohibit the entry of final judgment if defendant was in the custody of any law enforcement agency. Establishes notification procedures to be followed by appearance bond surety when defendant is detained in order to release surety from liability for appearance bond. Modifies proposed GS 15A-547.1 to provide that the bail bond of a defendant sentenced to community or intermediate punishment must be remitted whether or not an appeal is pending.

June 1, 2005

**S 797. BAIL BONDS/FORFEITURES & REMITTANCES.** Intro. 3/23/05. Senate amendment makes the following changes to 2nd edition. Clarifies that failure to appear due to incarceration or imprisonment is only for confinement at the time of failure to appear and includes confinement in facilities located in other states. Removes provisions relieving surety of liability for appearance bond or transportation costs under certain circumstances. Clarifies that sureties or bail agents with notice or actual knowledge of a defendant's failure to appear on two or more prior occasions on the same charge will not be entitled to set aside forfeitures of the bond. Allows district attorney to object and prevent return of bail bonds to obligor when defendants receive a prayer for judgment continued or deferred prosecution.