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February 1, 2024

VIA EMAIL

City of Atlanta
Attn. Members of Atlanta City Council

Fulton County Government
Attn. Board of Commissioners

Re: Senate Bill 63; Exacerbation of Jail Overcrowding, Court Processes and Community Aid

Dear Honorable Councilmembers and Commissioners:

We write to advise you that Senate Bill 63, sponsored by Senator Randy Robertson, just passed the Georgia Senate. The consequences of this legislation will negatively impact the City of Atlanta and Fulton County, where crime is declining contrary to popular narratives. Because the bill will likely be voted on in the House next week, it is important that you are aware of the potential collateral consequences. Attached please find the memo we disseminated to legislators prior to yesterday's amendments, our community talking points, and the conference committee report for this legislation.

Senate Bill 63 would effectively outlaw recognizance bonds for offenses frequently charged in our state and superior courts by expanding mandatory cash bail to 30 new offenses, including many non-violent misdemeanors. Several of the offenses included are also commonly leveraged against people experiencing homelessness and/or extreme poverty.

Furthermore, the legislation acts to functionally outlaw bail funds with the following language in Lines 193-198:

"No more than three cash bonds may be posted per year by any individual, corporation, organization, charity, nonprofit corporation, or group in any jurisdiction. Every individual, corporation, organization, charity, nonprofit corporation, or group that purports to be a charitable bail fund with the purpose of soliciting donations to use for securing the release of accused persons shall be required to submit to the same requirements as any professional surety company..."

We, along with many organizational partners, are concerned that this legislation will not only render community relief to incarcerated people virtually impossible, but will also criminalize faith leaders, houses of worship, direct aid agencies and other entities upon whom community members depend. Beyond concerns about the criminal legal system, we are also concerned that the bill is an abridgement of the First Amendment of the U.S. and Georgia Constitutions.

We urge your bodies to vocally oppose this regressive and harmful legislation. As the Department of Justice investigates the Fulton County Jail for what many of you have referred to as a humanitarian crisis, Senate Bill 63 will make forward progress by judicial actors and community organizations extremely difficult, if not impossible. **Given Atlanta's particular legacy of justice-oriented bail support, we hope that you will join us in taking urgent action.**

Please feel free to reach out to me directly with questions at troberts@schr.org.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Tiffany Roberts".

Tiffany Roberts
Director of Public Policy

SB 63 COMMUNITY TALKING POINTS

Georgia Already Has Restrictive Cash Bail Laws

- Georgia law already requires cash bail for serious offenses involving violence.
- Governor Kemp signed SB 100 into law last year, which already addresses the issue of failures to appear as they relate to cash bail.
- Crime is trending downward. SB 63 is not about public safety. The sole purpose of this bill is to increase the profits of bail bondsmen.
- SB 63 would require judges to impose cash bail in many more cases:
 - SB 63 more than doubles the list of offenses for which a judge must order cash bail. The list would now include many offenses that do not involve physical harm to another person, like possession of less than an ounce of marijuana, failure to appear, forgery, and criminal trespass.
 - If SB 63 passes, any person arrested for any felony in the last 7 years or any person ever sentenced under the recidivism statute is prohibited from being released without first paying bail.

Cash Bail Burdens Poor People & Threatens Public Safety

- Under SB 63, people with money can purchase their release from jail, while someone without money – charged with the exact same offense – must remain caged.
- People who are detained pretrial are more likely to agree to a plea deal that may not be in their best interests, more likely to be convicted, and more likely to face a harsher sentence. **Some studies have even shown that the longer a person is detained pretrial the more likely they are to reoffend later.**
- Requiring cash bail for things like criminal trespass will further contribute to jail overcrowding in a state where jails and prisons are experiencing record deaths.

Expanding Cash Bail Will Exacerbate Already Horrible Jail Conditions & Cost Taxpayers

- Local governments are responsible for pretrial detention costs and SB 63, by increasing pretrial detention, will also force higher costs for cities and counties and expose local governmental bodies to costs associated with any litigation pursuant to jail overcrowding.
- Those who survive their pretrial detention often lose employment and housing, are separated unnecessarily from their families and communities, and face statistically tougher outcomes than people who can pay bail.
- SB 63 fails to incentivize enhanced court notification processes like those in Athens that cause FTA rates to plummet, including reminders by text message.

This Law Targets Charities that Serve Communities

- This law would burden charities that bail people out of jail for free with the same registration requirements of for-profit bail bondsmen.
- This law limits entities and individuals to bailing out no more than 3 people per year, which effectively bans bail funds.
- Unlike bail bondsmen who charge **nonrefundable fees**, charity bail funds **do not charge** the community members they help. Placing the same burdens and criminal sanctions on efforts operating out of churches and aid funds targets constitutionally-protected civic activity that should instead be encouraged.

To: Members of the Georgia State Senate
From: James Woodall, Public Policy Associate
Date: January 25, 2024
Re: Concerns with SB 63 – Undermining Public Safety, Limiting Judicial Discretion, & Exacerbating Jail Overpopulation

Since 1976, the Southern Center for Human Rights (SCHR) has worked to promote equality, justice, and dignity in the criminal legal systems in Georgia and other Southern states. It is because of our continued commitment to addressing wealth-based detention that we write to oppose SB 63, a bill that would amend the definition of “bail-restricted offense” to *mandate cash bail for at least 30 additional offenses, including many misdemeanors*.

I. Pretrial release is only available when a judge has determined that the accused poses no risk to public safety and form of bond is therefore irrelevant to public safety argument.

Georgia law allows judges to release accused persons from jail pretrial *only after first determining that to do so will not create a substantial risk to public safety*.¹ This judicial determination is required regardless of whether legal financial obligations are attached to a bond order. If a court determines that releasing a person will not pose a risk to public safety, there are currently two options regarding the imposition of financial conditions for release: (1) unsecured judicial release and (2) secured bonds.

- A. Unsecured Judicial Release – Judges may release accused persons with non-financial obligations by ordering an unsecured judicial release. Under current law, a judge cannot order an unsecured judicial release for persons charged with any of the 28 “bail-restricted offenses,” including but not limited to murder, armed robbery, aggravated assault, and habitual violator charges.² When the list of current bail-restricted offenses was crafted, lawmakers intentionally included only those offenses considered to be the most severe. SB 63 would more than double this list, expanding it to include even misdemeanor offenses. *This would force judges to order a secured bond instead of an unsecured judicial release, even after the judge has determined that the person poses no risk to public safety*.³

¹ O.C.G.A. 17-6-1(e)

² O.C.G.A. 17-6-12

³ Georgia Bureau of Investigation, “Criminal Offenses that Require Fingerprinting,” <https://gbi.georgia.gov/criminal-offenses-require-fingerprinting>

- B. **Secured Bond** – A secured bond requires a person charged with a crime to tender money or property as a condition of release. As the vast majority of people in Georgia’s criminal legal system qualify for indigent defense, most accused persons do not have the resources to post bail on their own directly to governmental agencies and are forced to pay nonrefundable funds to a bail bonds company to be released from jail. Georgia law allows bail bonding companies to assess fees to be \$50 plus as much as 15% of the total bail amount.⁴ *Those who cannot afford to pay a bail bondsman are forced to stay in jail until the case is resolved or the court reduces the amount of the bond.* Georgia law places no limitations on which offenses qualify for secured bonds, which arguably encourages judges to order secured bonds over unsecured judicial release. This inherently and disproportionately harms poor Georgians by ensuring they remain in pretrial detention.

II. SB 63 will undermine public safety and will not reduce Failure to Appear rates.

Studies have shown that people who are detained pretrial are more likely to be convicted and face longer sentences than those who are released before trial.⁵ Moreover, some studies have shown that pretrial detention increases the likelihood of recidivism, as does extended involvement in the criminal legal system.⁶ At the same time, there is no consensus among experts that cash bail meaningfully increases the likelihood that a person will return to court for subsequent proceedings.⁷ Lawmakers hoping to encourage people facing criminal charges to return to court should explore proven solutions like text reminders and well-designed summons forms.

III. SB 63 will limit judicial discretion in bail determinations, and the resulting increase in jail populations will burden local governments and taxpayers.

- A. **Broad Attack on Judicial Discretion** – SB 63 severely restricts the discretion of duly-elected judges granted discretion to make individualized bond determinations. If SB 63 becomes law, judges will be required to impose more financial conditions for pretrial releases, resulting in the issuance of more secured bonds, higher pretrial detention costs for local governments, and increased revenues to the bail bond industry.

⁴ O.C.G.A. 17-6-30

⁵ Leon Digard and Elizabeth Swavola, Vera Institute of Justice, *Justice Denied: The Harmful and Lasting Effects of Pretrial Detention* (April 2019) available at <https://www.vera.org/downloads/publications/Justice-Denied-Evidence-Brief.pdf>

⁶ *Id.*

⁷ Alissa Fishbane, Aurelie Ouss, and Anuj K. Shah, *Behavioral nudges reduce failure to appear for court.* *Science*, Vol. 370, Issue 6517 (8 October 2020)

- B. Costly & Dangerous Expansion of Jail Population – SB 63 would increase the number of people held in local jails, exacerbating jail overpopulation, a problem that has already proven deadly. In Fulton County in 2022 alone, at least 14 people lost their lives while detained in jail. These deaths were preventable. An October study of the population of Fulton County jails revealed that 12% of the people detained were in jail not because they posed a risk to public safety but because they could not afford bail. Local governments are responsible for pretrial detention costs and SB 63, by increasing pretrial detention, will also force higher costs for cities and counties and expose local governmental bodies to costs associated with any litigation pursuant to jail overcrowding. Those who survive their pretrial detention often lose employment and housing, are separated unnecessarily from their families and communities, and face statistically tougher outcomes than people who can pay bail.⁸

IV. SB 63 violates fundamental principles of fairness in the criminal legal system.

When a person’s liberty is in jeopardy, including through pretrial detention, the due process principles of the Fourteenth Amendment are implicated. Substantive due process requires that a governmental infringement on liberty must be narrowly tailored to serve a compelling state interest.⁹ According to the U.S. Supreme Court, jailing a person solely because of their inability to supply a monetary payment violates the Due Process Clause unless the person’s ability to pay has been assessed and there is a finding that such non-payment was willful or that no other means will serve the government’s interest.¹⁰

III. Conclusion

While proponents of SB 63 may claim that this bill will promote public safety, lawmakers must remember that financial means have no impact on whether a person will engage in future unlawful behavior.¹¹ The impact of this legislation will cause immeasurable harm to Georgians lacking financial resources forced into lengthy jail stays while leaving Georgia’s taxpayers to saddle the costs of ever-increasing populations in local jails.

⁸ William Ahee, Micaela Alvarez, Jevhon Rivers, and Grace Signorelli, *Moving Beyond Money: A Primer on Bail Reform*. Criminal Justice Policy Program at Harvard Law School, 7 (2016), available at

<http://cjpp.law.harvard.edu/assets/FINAL-Primer-on-Bail-Reform.pdf>

⁹ *Reno v. Flores*, 507 U.S. 292, 302 (1993); see also *Washington v. Glucksberg*, 531 U.S. 702, 721 (1997); *Salerno*, 481 U.S. 739, 749-51 (1987).

¹⁰ *Bearden v. Georgia*, 461 U.S. 660 (1983).

¹¹ Michael R. Jones, *Unsecured Bonds: The As Effective and Most Efficient Pretrial Release Option* (October, 2013), available at:

<https://university.pretrial.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=87a896e2-5ab4-8123-b044-b84fba86e131&forceDialog=0>

COMMITTEE OF CONFERENCE REPORT ON SB 63

The Committee of Conference on SB 63 recommends that both the Senate and the House of Representatives recede from their positions and that the attached Committee of Conference Substitute to SB 63 be adopted.

Respectfully submitted,

FOR THE SENATE:

John F. Kennedy - 18th

Randy Ruff - 29

Steve Smith - 51

FOR THE HOUSE
OF REPRESENTATIVES:

Ch. E. H.

J. Collier

Forster G. 120

COMMITTEE OF CONFERENCE SUBSTITUTE TO SB 63

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to bonds
2 and recognizances, so as to provide for setting of bonds and schedules of bails; to provide
3 for release of individuals on bail for misdemeanors; to limit unsecured judicial releases; to
4 provide for limitations regarding charitable bail funds; to revise surety liability; to provide
5 for return of compensation by surety to principal; to change the fee for continuing education
6 programs for bail recovery agents; to revise when forfeiture of bonds occurs; to revise
7 procedures relating to execution hearings; to revise procedures for judgments on forfeitures
8 and remission of bond funds; to revise definitions; to provide for related matters; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 SECTION 1.

12 Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to bonds and
13 recognizances, is amended in Code Section 17-6-1, relating to when offenses bailable,
14 procedure, schedule of bails, and appeal bonds, by revising paragraph (4) of subsection (e),
15 paragraph (1) of subsection (f), and subsection (i) as follows:

16 "(4) A bond set for any offense by an elected judge, an appointed judge ~~filling the~~
17 ~~vacancy of an elected judge~~, or a judge sitting by designation that purports a dollar
18 amount shall be executed in the full-face amount of such bond through secured means as
19 provided for in Code Section 17-6-4 or 17-6-50 or shall be executed by use of property
20 as approved by the sheriff in the county where the offense was committed."

21 "(f)(1) Except as provided in subsection (a) of this Code section or as otherwise provided
22 in this subsection, the judge of any court of inquiry may by written order establish a
23 schedule of bails, inclusive of offenses that are violations of local ordinances, and unless
24 otherwise ordered by the judge of any court, an accused shall be released from custody
25 upon posting bail as fixed in the schedule; provided, however, that no bail schedule, local
26 standing order, official policy, or local ordinance shall mandate releasing an accused on
27 unsecured judicial release as defined in Code Section 17-6-12 prior to the accused
28 appearing before a judge of any court of inquiry. Nothing in this paragraph shall prohibit
29 unsecured judicial release for any person charged under any provision of local or state
30 law not providing for a sentence of confinement in a penal institution or state, county, or
31 local jail."

32 "(i) As used in this Code section, the term 'bail' shall only include the release of a person
33 on an unsecured judicial release, except as limited by Code Section 17-6-12 by the use of
34 secured means as provided in Code Sections 17-6-4 and 17-6-5, professional bondsmen as
35 provided in Code Section 17-6-50, or property as approved by the sheriff in the county
36 where the offense was committed."

37 SECTION 2.

38 Said chapter is further amended in Code Section 17-6-2, relating to acceptance of bail in
39 misdemeanor cases and posting driver's license as collateral for bail, by revising subsection
40 (b) as follows:

41 "(b) In all other misdemeanor cases, sheriffs and constables shall accept bail in such
 42 reasonable sufficient amount as may be just and fair for any person or persons charged with
 43 a misdemeanor, provided that the sureties tendered and offered on the bond are shall only
 44 include the release of a person by the use of secured means as provided in Code
 45 Sections 17-6-4 and 17-6-5, professional bondsmen as provided in Code Section 17-6-50,
 46 or property as approved by the sheriff in the county where the offense was committed."

47 SECTION 3.

48 Said chapter is further amended by revising Code Section 17-6-12, relating to unsecured
 49 judicial release, requirement, and effect of failure of person charged to appear for trial, as
 50 follows:

51 "17-6-12.

52 (a) As used in this Code section, the term:

53 (1) 'Bail restricted offense' means the person is charged with an offense of:

54 ~~(A) An offense of:~~

55 (i)(A) Murder or felony murder, as defined in Code Section 16-5-1;

56 (ii)(B) Armed robbery, as defined in Code Section 16-8-41;

57 (iii)(C) Kidnapping, as defined in Code Section 16-5-40;

58 (iv)(D) Rape, as defined in Code Section 16-6-1;

59 (v)(E) Aggravated child molestation, as defined in subsection (c) of Code
 60 Section 16-6-4, unless subject to the provisions of paragraph (2) of subsection (d) of
 61 Code Section 16-6-4;

62 (vi)(F) Aggravated sodomy, as defined in Code Section 16-6-2; ~~or~~

63 (vii)(G) Aggravated sexual battery, as defined in Code Section 16-6-22.2;

64 ~~(B) A felony offense of:~~

65 (i)(H) Aggravated assault;

66 (ii)(I) Aggravated battery;

- 67 (iii)(J) Hijacking a motor vehicle in the first degree;
- 68 (iv)(K) Aggravated stalking;
- 69 (v)(L) Child molestation;
- 70 (vi)(M) Enticing a child for indecent purposes;
- 71 (vii)(N) Pimping;
- 72 (viii)(O) Robbery;
- 73 (viii.1)(P) Burglary;
- 74 (ix)(Q) Bail jumping;
- 75 (x)(R) Escape;
- 76 (xi)(S) Possession of a firearm or knife during the commission of or attempt to commit
77 certain crimes;
- 78 (xii)(T) Possession of firearms by convicted felons and first offender probationers;
- 79 (xiii)(U) Trafficking in cocaine, illegal drugs, marijuana, or methamphetamine;
- 80 (xiv)(V) Participating in criminal gang activity as defined in Code Section 16-15-3;
- 81 (xv)(W) Habitual violator;
- 82 (xvi)(X) Driving under the influence of alcohol, drugs, or other intoxicating
83 substances;
- 84 (xvii)(Y) Entering an automobile or other mobile vehicle with intent to commit theft
85 or felony, as defined in Code Section 16-8-18; or
- 86 (xviii)(Z) Stalking; or
- 87 (C) ~~A misdemeanor offense of:~~
- 88 (i)(AA) Crimes involving family violence, as defined in Code Section 19-13-1; or
- 89 (ii) ~~Stalking:~~
- 90 (BB) Reckless stunt driving, as described in Code Section 40-6-390.1, provided that
91 such offense is the person's second or subsequent offense;
- 92 (CC) Promoting or organizing an exhibition of drag races or laying drags, as described
93 in Code Section 16-11-43.1;

- 94 (DD) Laying drags, as defined in Code Section 40-6-251;
- 95 (EE) Reckless driving, as described in Code Section 40-6-390, provided that such
96 offense is the person's second or subsequent offense;
- 97 (FF) Fleeing or attempting to elude a police officer, as described in Code
98 Section 40-6-395;
- 99 (GG) Obstruction of a law enforcement officer, as described in Code Section 16-10-29;
- 100 (HH) Criminal trespass, as described in Code Section 16-7-21, provided that such
101 offense is the person's second or subsequent offense;
- 102 (II) Theft by taking, as described in Code Section 16-8-2, provided that such offense
103 is the person's second or subsequent offense;
- 104 (JJ) Theft by deception, as described in Code Section 16-8-3;
- 105 (KK) Theft by extortion, as described in Code Section 16-8-16;
- 106 (LL) Destruction, removal, concealment, encumbrance, or transfer of property subject
107 to security interest, as described in Code Section 16-9-51;
- 108 (MM) Bribery, as described in Code Section 16-10-2;
- 109 (NN) Purchase, possession, manufacture, distribution, or sale of controlled substances
110 or marijuana, as described in Code Section 16-13-30;
- 111 (OO) Forgery, as described in Code Section 16-9-1;
- 112 (PP) Exploitation and intimidation of disabled adults, elder persons, and residents or
113 obstruction of an investigation, as described in Code Section 16-5-102;
- 114 (QQ) Battery, as described in Code Section 16-5-23.1;
- 115 (RR) Voluntary manslaughter, as described in Code Section 16-5-2;
- 116 (SS) Cruelty to animals, as described in Code Section 16-12-4;
- 117 (TT) Violation of oath by a public officer, as described in Code Section 16-10-1;
- 118 (UU) Financial transaction card fraud, as described in Code Section 16-9-33;
- 119 (VV) Financial transaction card theft, as described in Code Section 16-9-31;
- 120 (WW) Identity fraud, as described in Code Section 16-9-121;

- 121 (XX) Racketeering and conspiracy, as described in Code Section 16-14-4;
122 (YY) Trafficking of persons for labor or sexual servitude, as described in Code
123 Section 16-5-46;
124 (ZZ) Failure to appear, as described in Code Section 40-13-63, provided that such
125 offense is the person's second or subsequent offense;
126 (AAA) Domestic terrorism, as described in Code Section 16-11-221;
127 (BBB) Riot, as described in Code Section 16-11-30;
128 (CCC) Inciting to riot, as described in Code Section 16-11-31;
129 (DDD) Unlawful assembly, as described in Code Section 16-11-33; or
130 (EEE) Possession of tools for commission of a crime, as described in Code
131 Section 16-7-20.
- 132 (2) 'Unsecured judicial release' means any release that does not purport a dollar amount
133 through secured means as provided for in Code Section 17-6-4 or 17-6-50 or property as
134 approved by the sheriff in the county where the offense was committed and that is:
- 135 (A) On a person's own recognizance; or
136 (B) For the purpose of entering a pretrial release program, a pretrial release and
137 diversion program as provided for in Article 4 of Chapter 3 of Title 42, or a pretrial
138 intervention and diversion program as provided for in Article 4 of Chapter 18 of Title
139 15, or pursuant to Uniform Superior Court Rule 27.
- 140 (b)(1) An elected judge, an appointed judge filling the vacancy of an elected judge, or
141 a judge sitting by designation may issue an unsecured judicial release under subparagraph
142 (a)(2)(A) of this Code section if:
- 143 (A) Such unsecured judicial release is noted on the release order;
144 (B) The person is not charged with a bail restricted offense;
145 (C) The person has not been convicted of bail jumping as provided in Code Section
146 16-10-51 within the past five years; and

147 (D) No bench warrant has been issued for the person's arrest based on such person's
148 failure to appear in court within the past five years; provided, however, that this
149 subparagraph shall not apply if such warrant was recalled or issued on the basis of such
150 person's failure to appear for a nonserious traffic offense, as such term is defined in
151 Code Section 35-3-37.

152 (2) A person who is ineligible for unsecured judicial release pursuant to subparagraph
153 (C) or (D) of paragraph (1) of this subsection may contest his or her ineligibility on the
154 basis that his or her criminal history record information is inaccurate, incomplete, or
155 misleading. In such instance, the prosecuting attorney shall bear the burden of
156 establishing such person's ineligibility.

157 (c) An elected judge, an appointed judge ~~filling the vacancy of an elected judge~~, or a judge
158 sitting by designation may issue an unsecured judicial release under subparagraph (a)(2)(B)
159 of this Code section if:

160 ~~(1) Such such unsecured judicial release is noted on the release order, and~~

161 ~~(2) The person is not charged with a bail restricted offense.~~

162 (d) No person charged with a bail restricted offense shall be eligible for release by any
163 judge on an unsecured judicial release. Such persons charged with a bail restricted offense
164 shall only be eligible for release through the use of secured means as provided in Code
165 Sections 17-6-4 and 17-6-5, professional bondsmen as provided in Code Section 17-6-50,
166 or property as approved by the sheriff in the county where the offense was committed.
167 Except as provided in ~~subsection~~ subsections (b) and ~~subsection~~ (c) of this Code section
168 and in addition to other laws regarding the release of an accused person, the judge of any
169 court having jurisdiction over a person charged with committing an offense against the
170 criminal laws of this state shall have authority, in his or her sound discretion and in
171 appropriate cases, to authorize the release of the person on an unsecured judicial release
172 only unless such person is charged with a bail restricted offense.

173 (e) Upon the failure of a person released on an unsecured judicial release to appear for
174 trial, if the release is not otherwise conditioned by the court, absent a finding of sufficient
175 excuse to appear, the court shall summarily issue an order for his or her arrest which shall
176 be enforced as in cases of forfeited bonds.

177 (f) Prior to issuing an unsecured judicial release, a judge shall, in addition to the
178 considerations provided for in Code Section 17-6-1, consider the accused person's criminal
179 history record information that is available at such time.

180 (g) Notwithstanding other laws regarding the release of an accused person, no person
181 sentenced pursuant to subsection (b) or (c) of Code Section 17-10-7 shall be eligible for
182 release by any judge on an unsecured judicial release. Such person shall only be eligible
183 for release through the use of secured means as provided in Code Sections 17-6-4 and
184 17-6-5, professional bondsmen as provided in Code Section 17-6-50, or property as
185 approved by the sheriff in the county where the offense was committed."

186 SECTION 4.

187 Said chapter is further amended in Code Section 17-6-15, relating to necessity for
188 commitment where bail tendered and accepted, opportunity for bail, receipt of bail after
189 commitment and imprisonment, imprisonment of person who offers bond for amount of bail
190 set, and effect upon common-law authority of court, by adding three new paragraphs to
191 subsection (b) to read as follows:

192 "(4) No more than three cash bonds may be posted per year by any individual,
193 corporation, organization, charity, nonprofit corporation, or group in any jurisdiction.
194 Every individual, corporation, organization, charity, nonprofit corporation, or group that
195 purports to be a charitable bail fund with the purpose of soliciting donations to use for
196 securing the release of accused persons shall be required to submit to the same
197 requirements as any professional surety company, including, without limitation, the

198 requirements set forth in paragraph (1) of this subsection and Code Sections 17-6-50,
199 17-6-50.1, and 17-6-51.

200 (5) Prosecuting attorneys and the Attorney General shall have concurrent authority to
201 prosecute any violation of paragraph (4) of this subsection.

202 (6) Any person or entity who violates any part of paragraph (4) of this subsection shall
203 be guilty of a misdemeanor."

204 **SECTION 5.**

205 Said chapter is further amended in Code Section 17-6-31, relating to surrender of principal
206 by surety, forfeiture of bond, and death of principal, by revising subsections (a) and (d) as
207 follows:

208 "(a) When the court is not in session, a surety on a bond may surrender the surety's
209 principal to the sheriff or to the responsible law enforcement officer of the jurisdiction in
210 which the case is pending in order to be released from liability. If the sheriff or the
211 responsible law enforcement officer of the jurisdiction refuses such surrender, the surety
212 shall be released from liability."

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

215 (A) A deferred sentence;

216 (B) A presentence investigation;

217 (C) ~~A court ordered~~ Entry into a pretrial intervention and diversion program;

218 (D) ~~A court ordered~~ Entry into an educational and rehabilitation program;

219 (E) A fine;

220 (F) A dead docket; or

221 (G) Death of the principal;

222 (H) Participation in an accountability court; or

223 (I) Entry into a pretrial release program.

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

226 (A) ~~The~~ the principal used a false name when he or she was bound over and committed
227 to jail or a correctional institution and was subsequently released from such facility
228 unless the surety knew or ~~should have known~~ had reason to know that the principal
229 used a false name; and

230 (B) ~~The surety shows to the satisfaction of the court that he or she acted with due~~
231 ~~diligence and used all practical means to secure the attendance of the principal before~~
232 ~~the court."~~

233 SECTION 6.

234 Said chapter is further amended in Code Section 17-6-54, relating to no further compensation
235 after becoming surety, when sum received to be returned to defendant, and right to surrender
236 defendant and to keep sum paid when defendant forfeits, by revising subsection (a) as
237 follows:

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

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

247 (2) The defendant's cosigner attests in writing the desire to be released from the bond;

248 (3) The defendant fails to provide to ~~the court and~~ the surety the defendant's change of
249 address;

- 250 (4) The defendant fails to pay any fee due to the surety after being notified by ~~certified~~
251 ~~mail or statutory overnight delivery~~ that the same is past due;
- 252 (5) The defendant fails to notify ~~the court and~~ the surety upon leaving the jurisdiction of
253 the court; or
- 254 (6) The defendant provides false information to the surety."

255 **SECTION 7.**

256 Said chapter is further amended in Code Section 17-6-56.1, relating to continuing education
257 programs for bail recovery agents, fee, annual requirement, and certificate of completion, by
258 revising subsection (b) as follows:

259 "(b) The fee for continuing education programs for bail recovery agents shall not exceed
260 ~~\$125.00~~ \$250.00 annually."

261 **SECTION 8.**

262 Said chapter is further amended in Code Section 17-6-70, relating to when forfeiture occurs,
263 by revising subsection (b) as follows:

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

270 **SECTION 9.**

271 Said chapter is further amended by revising Code Section 17-6-71, relating to execution
272 hearing on failure of principal to appear, as follows:

273 "17-6-71.

274 (a) ~~The judge shall, at the end of the court day, upon the failure of the principal to appear,~~
275 ~~forfeit the bond, issue a bench warrant for the principal's arrest, and order an execution~~
276 ~~hearing not sooner than 120 days but not later than 150 days after such failure to appear.~~
277 ~~Notice of the execution hearing shall be served by the clerk of the court in which the bond~~
278 ~~forfeiture occurred within ten days of such failure to appear by certified mail or by~~
279 ~~electronic means as provided in Code Section 17-6-50 to the surety at the address listed on~~
280 ~~the bond or by personal service to the surety within ten days of such failure to appear at its~~
281 ~~home office or to its designated registered agent. Service shall be considered complete~~
282 ~~upon the mailing of such certified notice. Such ten-day notice shall be adhered to strictly.~~
283 ~~If notice of the execution hearing is not served as specified in this subsection, the surety~~
284 ~~shall be relieved of liability on the appearance bond~~ The judge shall, at the end of the court
285 day, upon the failure of the principal to appear, forfeit the bond and issue a bench warrant
286 for the principal's arrest. If the forfeiture and bench warrant are not issued and signed
287 within ten days of the failure to appear, the surety shall be relieved of liability on the
288 appearance bond. Upon forfeiting the bond, the judge shall order an execution hearing not
289 sooner than 150 days but not later than 180 days after such failure to appear. Notice of the
290 execution hearing and a copy of the bench warrant shall be served by the clerk of the court
291 in which the bond forfeiture occurred within ten days of such failure to appear by certified
292 mail, return receipt requested, or by electronic means as provided in Code Section 17-6-50
293 to the surety at the address listed on the bond or by personal service to the surety within ten
294 days of such failure to appear at its home office or to its designated registered agent.
295 Service shall be considered complete upon the mailing of such certified notice. Such
296 ten-day notice shall be adhered to strictly. If notice of the execution hearing and bench
297 warrant are not served as specified in this subsection, the surety shall be relieved of liability
298 on the appearance bond.

299 (b) If at the execution hearing it is determined that judgment should be entered, the judge
300 shall so order and a writ of fieri facias shall be filed in the office of the clerk of the court
301 where such judgment is entered. Notice of the judgment shall be served by the clerk of the
302 court in which entry of judgment occurred within ten days of such entry by certified mail,
303 return receipt requested, or by electronic means as provided in Code Section 17-6-50 to the
304 surety at the address listed on the bond or by personal service to the surety within ten days
305 of such entry of judgment at its home office or to its designated registered agent. Service
306 shall be considered complete upon the mailing of such certified notice. Such ten-day notice
307 shall be adhered to strictly. If the notice of the judgment is not served in the time frame as
308 specified in this subsection, the surety shall be relieved of liability on the appearance bond,
309 the judgment shall be marked satisfied, and the writ of fieri facias shall be canceled. The
310 provisions of this subsection shall apply to all bail bonds, whether returnable to superior
311 court, state court, probate court, magistrate court, or municipal court."

312 **SECTION 10.**

313 Said chapter is further amended in Code Section 17-6-72, relating to conditions not
314 warranting forfeiture of bond for failure to appear and remission of forfeiture, by revising
315 subsections (b), (c), (c.1), (d), and (e) as follows:

316 "(b) No judgment shall be rendered on a forfeiture of any appearance bond if it is ~~shown~~
317 ~~to the satisfaction of the court that~~ the principal on the bond was prevented from attending
318 because he or she was detained by reason of arrest, sentence, or confinement in a penal
319 institution or jail in the State of Georgia, or so detained in another jurisdiction, or because
320 he or she was involuntarily confined or detained pursuant to court order in a mental
321 institution in the State of Georgia or in another jurisdiction. ~~An official written~~ Written
322 notice of the holding institution in which the principal is being detained or confined shall
323 be considered proof of the principal's detention or confinement. ~~Such notice may be sent~~
324 ~~from the holding institution by mail or e-mail or delivered by hand or by facsimile~~

325 ~~machine.~~ Upon the presentation of such written notice to the clerk of the proper court, the
326 prosecuting attorney, and the sheriff or other law enforcement officer having jurisdiction
327 over the case, along with a letter of intent to pay all costs of returning the principal to the
328 jurisdiction of the court, such notice and letter shall serve as the surety's request for a
329 detainer or hold to be placed on the principal. Should there be a failure to place a detainer
330 or hold within ten business days of the surety's service of a detainer or hold request, and
331 after such presentation of such notice and letter of intent to pay costs, the surety shall then
332 be relieved of the liability for the appearance bond without further order of the court.

333 (c) No judgment shall be rendered on a forfeiture of any appearance bond if ~~it is shown to~~
334 ~~the satisfaction of the court that~~ prior to the entry of the judgment on the forfeiture the
335 principal on the bond is in the custody of the sheriff or other responsible law enforcement
336 agency. ~~An official written~~ Written notice of the holding institution in which the principal
337 is being detained or confined shall be considered proof of the principal's detention or
338 confinement. ~~Such notice may be sent from the holding institution by mail or e-mail or~~
339 ~~delivered by hand or by facsimile machine.~~ Upon presentation of such written notice to the
340 clerk of the proper court, the prosecuting attorney, and the sheriff or other law enforcement
341 officer having jurisdiction over the case along with a letter of intent to pay all costs of
342 returning the principal to the jurisdiction of the court, such notice and letter shall serve as
343 the surety's request for a detainer or hold to be placed against the principal. Should there
344 be a failure to place a detainer or hold within ten business days of the surety's service of
345 a detainer or hold request, and after presentation of such notice and letter of intent to pay
346 costs, the surety shall then be relieved of the liability for the appearance bond without
347 further order of the court.

348 ~~(c.1) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown~~
349 ~~to the satisfaction of the court that the principal on the bond was prevented from attending~~
350 ~~because he or she was deported or removed from the United States by federal authorities.~~
351 ~~Official documentation from a federal official or agency shall be considered proof of the~~

352 ~~principal's deportation or removal. Such documentation may be delivered by mail or~~
353 ~~e-mail or delivered by hand or by facsimile machine.~~

354 (d) In cases in which subsection (e) of this Code section is not applicable, the court shall
355 order remission under the following conditions:

356 (1) Provided the bond amount, including all surcharges, has been paid within ~~120~~ 150
357 days after entry of the judgment ~~and the delay has not prevented prosecution of the~~
358 ~~principal~~ and upon application filed within ~~120~~ 150 days from the payment of judgment
359 with prior notice to the prosecuting attorney of such application, said court shall direct
360 remission of 95 percent of the bond amount, including all surcharges, remitted to the
361 surety if the principal is produced, surrendered, or otherwise appears before the court that
362 has jurisdiction of the bond or if the surety provides proof of the principal's incarceration
363 or confinement in another jurisdiction or proof of the principal's death within such ~~120~~
364 150 day period following payment of the judgment;

365 (2) Provided the bond amount, including all surcharges, has been paid within ~~120~~ 150
366 days after the entry of judgment and ~~the delay has not prevented prosecution of the~~
367 ~~principal, should the surety, within two years of the principal's failure to appear, locate~~
368 ~~the principal in the custody of the sheriff in the jurisdiction where the bond was made or~~
369 ~~in another jurisdiction causing the return of the principal to the jurisdiction where the~~
370 ~~bond was made, apprehend, surrender, or produce the principal, if the apprehension or~~
371 ~~surrender of the principal is substantially procured or caused by the surety, or if the~~
372 ~~location of the principal by the surety causes the adjudication of the principal in the~~
373 ~~jurisdiction in which the bond was made, the surety shall be entitled to a refund of 50~~
374 ~~percent of the bond amount. The application for 50 percent remission shall be filed no~~
375 ~~later than 30 days following the expiration of the two-year period following the date of~~
376 ~~judgment upon application filed within 60 days following the expiration of the two-year~~
377 ~~period following the date of judgment with prior notice to the prosecuting attorney of~~
378 such application, said court shall direct remission of 50 percent of the bond amount.

379 including all surcharges, remitted to the surety if the principal is produced, surrendered,
380 or otherwise appears before the court that has jurisdiction of the bond or if the surety
381 provides proof of the principal's incarceration or confinement in another jurisdiction,
382 proof of the principal's death, or proof that surrender of the principal was denied by the
383 sheriff or other responsible law enforcement officer within such two-year period
384 following payment of the judgment; or

385 (3) Remission One hundred percent remission shall be granted upon condition of the
386 payment of court costs and of the expenses of returning the principal to the jurisdiction
387 by the surety.

388 (e)(1) If, within ~~120~~ 150 days from entry of the judgment, the surety surrenders the
389 principal to the sheriff or responsible law enforcement officer, or said surrender has been
390 denied by the sheriff or responsible law enforcement officer, or the surety locates the
391 principal in custody in another jurisdiction, the surety shall only be required to pay costs
392 and 5 percent of the face amount of the bond, which amount includes all surcharges. If
393 it is shown to the satisfaction of the court, by the presentation of competent evidence
394 from the sheriff or the holding institution, that said surrender has been made or denied or
395 that the principal is in custody in another jurisdiction or that said surrender has been made
396 and that 5 percent of the face amount of the bond and all costs have been tendered to the
397 sheriff, the court shall direct that the judgment be marked satisfied and that the writ of
398 fieri facias be canceled.

399 (2)(A) The court shall direct that the judgment be marked satisfied and that the writ of
400 fieri facias be canceled, if within ~~120~~ 150 days from entry of the judgment, the surety:

- 401 (i) Tenders an amount equal to 5 percent of the face amount of the bond and all costs
402 to the sheriff; and
403 (ii) Provides, in writing, the court and the prosecuting attorney for the court that has
404 jurisdiction of the bond with competent evidence giving probable cause to believe that
405 the principal is located in another jurisdiction within the United States and states that

406 it will provide for the reasonable remuneration for the rendition of the principal, as
407 estimated by the sheriff; and

408 (B) The prosecuting attorney for the court that has jurisdiction of the bond:

409 (i) Declines, in writing, to authorize or facilitate extradition; or

410 (ii) Within ten business days of the notice provided pursuant to division (2)(A)(ii) of
411 this subsection, fails to enter the appropriate extradition approval code into the
412 computerized files maintained by the Federal Bureau of Investigation National Crime
413 Information Center, thereby indicating an unwillingness to extradite the principal."

414 **SECTION 11.**

415 All laws and parts of laws in conflict with this Act are repealed.