

# SENATE BILL 1030

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4r1908  
CF HB 631

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By: **Senators Muse and Conway**

Introduced and read first time: February 13, 2014

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Forfeiture of Bail Bonds**

3 FOR the purpose of repealing a provision of law that prohibits a court that exercises  
4 criminal jurisdiction from refunding a forfeiture of bail or collateral at a certain  
5 time unless a private surety pays a forfeiture of bail or collateral within a  
6 certain time; repealing certain conditions that must be met before the court may  
7 refund a forfeited bail bond or collateral that was not paid within a certain time;  
8 and generally relating to forfeiture of bail bonds in circuit courts and in the  
9 District Court.

10 BY repealing and reenacting, with amendments,  
11 Article – Criminal Procedure  
12 Section 5–208  
13 Annotated Code of Maryland  
14 (2008 Replacement Volume and 2013 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Criminal Procedure**

18 5–208.

19 (a) In this section, “return” means to place in the custody of a police officer,  
20 sheriff, or other commissioned law enforcement officer who is authorized to make  
21 arrests within the jurisdiction of the court.

22 (b) (1) Subject to paragraph (2) of this subsection, a court that exercises  
23 criminal jurisdiction shall strike out a forfeiture of bail or collateral and discharge the  
24 underlying bail bond if the defendant can show reasonable grounds for the defendant’s  
25 failure to appear.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1                   (2)    [(i)]   The court shall:

2                               (I)    allow a surety 90 days after the date of the defendant's  
3 failure to appear or, for good cause shown, 180 days to return the defendant before  
4 requiring the payment of any forfeiture of bail or collateral[.]; AND

5                               (ii)   [The court shall] strike out a forfeiture of bail or collateral  
6 and deduct only the actual expense incurred for the defendant's arrest, apprehension,  
7 or surrender, if:

8                                       1.    [the surety paid the forfeiture of bail or collateral  
9 during the period allowed for the return of the defendant under subparagraph (i) of  
10 this paragraph;

11                                       2.]    the defendant is returned; and

12                                       [3.] 2.   the arrest, apprehension, or surrender occurs more  
13 than 90 days after the defendant's failure to appear or at the end of the period that the  
14 court allows to return the defendant.

15                   (c)    Evidence of confinement of a fugitive defendant in a correctional facility  
16 in the United States is a wholly sufficient ground to strike out a forfeiture, if  
17 assurance is given that the defendant will come back to the jurisdiction of the court on  
18 expiration of the sentence at no expense to the State, county, or municipal corporation.

19                   (d)    (1)    Except as provided in paragraph (2) of this subsection, if the court  
20 indefinitely postpones trial of a criminal charge by marking the criminal charge "stet"  
21 on the docket:

22                               (i)    the defendant or other person who gave collateral for bail or  
23 recognizance is entitled to a refund; and

24                               (ii)   if a bail bond or other security was given, the bail bond or  
25 other security shall be discharged.

26                               (2)    If the bail bond or other security has been declared forfeited and 10  
27 years have passed since the bail bond or other security was posted, the defendant or  
28 other person may not receive a refund or discharge.

29                   (e)    (1)    A court exercising criminal jurisdiction may not order a forfeiture  
30 of the bail bond or collateral posted by a surety and shall give back the bail bond or  
31 collateral to the surety if:

32                               (i)    the defendant fails to appear in court; and

1 (ii) the surety produces evidence, within the time limits  
2 established under subsection (b) of this section, that:

3 1. the defendant is confined in a correctional facility  
4 outside the State;

5 2. the State's Attorney is unwilling to issue a detainer  
6 and later extradite the defendant; and

7 3. the surety agrees in writing to defray the expense of  
8 returning the defendant to the jurisdiction in accordance with subsection (c) of this  
9 section.

10 (2) [Subject to paragraph (3) of this subsection, a] A court exercising  
11 criminal jurisdiction that has ordered forfeiture of a bail bond or collateral after  
12 expiration of the time limits established under subsection (b) of this section for a  
13 surety to return a defendant shall give back the forfeited bail bond or collateral if,  
14 within 10 years after the date the bail bond or collateral was posted, the surety  
15 produces evidence that:

16 (i) the defendant is confined in a correctional facility outside  
17 the State;

18 (ii) the State's Attorney is unwilling to issue a detainer and  
19 later extradite the defendant; and

20 (iii) the surety agrees in writing to defray the expense of  
21 returning the defendant to the jurisdiction in accordance with subsection (c) of this  
22 section.

23 [(3) (i) Subject to subparagraph (ii) of this paragraph, the court  
24 may not refund a forfeited bail bond or collateral to a surety under this subsection  
25 unless the surety paid the forfeiture of bail or collateral within the time limits  
26 established for the surety to return the defendant under subsection (b)(2)(i) of this  
27 section.

28 (ii) The court may refund a forfeited bail bond or collateral that  
29 was not paid within the time limits established under subsection (b) of this section, if:

30 1. on motion, the surety produces evidence that the  
31 defendant was incarcerated when the judgment of forfeiture was entered; and

32 2. the court strikes out the judgment of forfeiture for  
33 fraud, mistake, or irregularity.]

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 October 1, 2014.