

Article - Criminal Procedure

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§5–208.

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

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

(2) (i) The court shall allow a surety 90 days after the date of the defendant’s failure to appear or, for good cause shown, 180 days to return the defendant before requiring the payment of any forfeiture of bail or collateral.

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

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

2. the defendant is returned; and

3. the arrest, apprehension, or surrender occurs more than 90 days after the defendant’s failure to appear or at the end of the period that the court allows to return the defendant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. on motion, the surety produces evidence that the defendant was incarcerated when the judgment of forfeiture was entered; and
2. the court strikes out the judgment of forfeiture for fraud, mistake, or irregularity.

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