



Association of Louisiana Bail Underwriters

Rule to Show Cause

Correspondence Continuing Education Course
3 Hours Upon Successful Completion

Bail Enforcement Credit

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TABLE OF CONTENTS

- I. **SECTION I** Page 3
 - a. Definitions
 - b. Reason for Rule to Show Cause
 - c. Timeline
 - d. Procedure for Bond Forfeiture
 - e. Bond Forfeiture Hearing
 - f. Forfeiting a Bond

- II. **SECTION II** Page 9
 - a. Laws & Procedures

- III. **SECTION III** Page 11
 - a. Solution to Rule to Show Cause
 - b. Repercussion of Rules to Show Cause
 - c. Bail Defined
 - d. Bail – Details

DISCLAIMER

This information is provided to you as guidelines for your Continuing Education ONLY. It is NOT to be construed as Legal advice. For Legal advice, consult your Attorney.

I. SECTION I

a. Definitions

- i. **Bond Forfeiture:** defendant fails to appear as order by the court.
- ii. **Rule to Show Cause:** hearing order by D.U.I. to determine way bond forfeiture was not settlement in the time frame allowed by law.

b. Reason for Rule to Show Cause

- i. Agent or Surety has allowed 210 days to pass and bond forfeiture has not been settled with the court that the surety bond was posted in.

c. Timeline (see attachment)

d. Procedure for Bond Forfeiture

- i. Call for defendant to come forward.
- ii. When defendant not present call for bondsman and surety.
- iii. Have bailiff call for defendant. Bondsman and surety in hall.
- iv. Move court to order the clerk to record in minutes defendant, bondsman and surety were called for in court and in hall and were not present.
- v. Move for bond forfeiture. Set hearing.

e. Bond Forfeiture Hearing

- i. File and introduce into evidence court minutes reflecting that defendant, agent and surety were called for in courtroom and halls with no response. (get print out from Clerk of Court).

- ii. Call deputy sheriff from fines and bonds as witness.
- iii. Ask witness to state his/her name, job, title, and employer.
- iv. Ask witness if included in his/her duties is the custody and maintenance of records of bonds and notices to appear.
- v. Ask deputy if he/she has been asked to research records pertaining to this defendant, and particularly the notice for the defendant to appear in court on ___ date.
- vi. Ask deputy if he/she brought said records with him/her.
- vii. Mark and have witness identify as S-1 the original bond. (Make sure original bond is filled out properly and signed by defendant as principal).
- viii. Mark and have witness identify letter to defendant as S-3. (Note: this evidence must reflect notice was sent first class mail, postage prepaid, to address defendant provided on bond).
- ix. Mark and have the witness identify as S-4 the letter to the surety.
- x. Mark and have the witness identify as S-5 the green return receipt for registered letter sent to surety. (Note: Notice must have been sent at least three (3) days prior to date of defendant's appearance).
- xi. Mark and have the witness identify as S-6 the letter sent to the agent for surety.
- xii. Mark and have the witness identify as S-7 the green card return receipt for registered letter sent to agent for surety. (Note: if there was no notice to agent, notice is not insufficient. Steps 12 & 13 are present if such a notice was sent).
- xiii. Offer and introduce into evidence S-1 through S-7.

- xiv. Request judgement of bond forfeiture. Judge must grant such request on the record. You then submit a written judgement, with two (2) copies, which you have already checked to make sure it is in the proper form. Things to look for in the judgement: does the amount of bond in judgement match the amount of bond in S-1? Is the defendant properly identified as the principle? Is the judgement against defendant as principle and the surety (not the local bondsman) in solido?

- xv. After the judge signs the judgement of bond forfeiture, move in open court, that if the judgement is not paid in 24 hours that the clerk of court is ordered to record the judgement in the mortgage records of _____ parish. Also move in open court that the court order the clerk to promptly mail a notice of bond forfeiture judgement to the surety at the address on the original bond, and include in said notice the power of attorney number on the original power of attorney attached to the bond, and to mail a copy of the notice to the agent of the surety who posted the bond. Also request in open court that the court order the clerk to execute an affidavit of the above mailings of notice and place it in the record.

NOTE

The notice to appear by the sheriff to the defendant and the surety for the instant appearance is defective:

Determine whether or no the defendant was physically present, in open court, at the time of the setting of the then future court date at which the defendant ultimately fails to appear.

If so, then at bond forfeiture hearing introduce:

1. A copy of complete minutes showing defendant appeared at initial court appearance after making bond.
2. Copy of notice letter to surety and the defendant for defendant's original court appearance and the green card showing sent certified.

f. Forfeiting a Bond

- i. Upon defendant's failure to appear and prosecutor proper evidence (all the following)
 1. The bail contract
 2. The power of attorney
 3. Proper notice

- ii. The court shall order a bench warrant and a bond forfeiture against defendant and sureties in solido for the full amount.
 1. Court did sign written judgement of bond forfeiture

- iii. Clerk mailed (certified) notice of signing of the judgement to (all the following)
 1. Address given by the defendant
 2. Personal sureties
 3. Agent or bondsman who posted for commercial surety
 4. Commercial surety, this notice **shall** include the power of attorney number used to execute the bond.

- iv. Time Frame
 1. Clerk mailed proper notice within **60 days** after defendants having failed to appear in court.

- v. After mailing
 1. Clerk shall have executive affidavit of mailing
 2. Clerk shall place affidavit & return receipt in the court records
 3. District Attorney records judgments in each parish he/she deemed proper (Judicial Mortgage)

- vi. Summary Proceedings
 1. Within 60 days of mailing of notice of signing of judgement surety may bring action in nullity or any defense
 2. Within 180 days of the mailing of the notice of signing of the judgement,
 - a. Surety may bring defenses pursuant to the following

- b. Surrender of said defendant (Article 345)
- c. Non forfeiture situations (R.S. 15:87)

vii. Appeals

- 1. Suspensive within 60 days from mailing of notice of signing of judgement
- 2. Security equal to bail must be posted
- 3. Devolutive within 120 days from mailing of notice of signing of judgment

viii. Collections

- 1. 6 months have passed since mailing of notice of signing of judgment
- 2. Suspensive appeal has not been taken
- 3. Prosecutor has filed with commissioner of insurance a rule to show cause
- 4. Attorney general officer has taken over because prosecuting attorney has failed to initiate collection within 250 days of mailing notice

ix. Nullity Actions

- 1. If nullity actions have not been filed within 60 days, they may be filed under ordinary proceedings.

x. Satisfaction of Judgement (within time delays)

- 1. Appearance satisfied judgement
- 2. Surrender satisfied judgement and relieves of bond obligation
- 3. Six months as past and bond is not satisfied, payment within 10 days without interest, cost or fees.

xi. Failure to satisfy judgement within 210 days of mailing without suspensive appeal

- 1. Prosecutor has filed a rule why surety shall be prohibited from executing bonds in this court

g. Non-Forfeiture Situations

- i. No Judgement decreeing the forfeiture shall be rendered if the is prevented from attending because of the following:

1. Physical disabilities, injuries or illness;
 2. Detained in jail or penitentiary of another jurisdiction;
 3. Serving in the armed forces of the United States.
- ii. Have a sworn affidavit from one of the following who attests to the cause of the defendant's failure to appear:
1. Jailer
 2. Warden
 3. Physical
 4. Commanding officer
 5. Other responsible officer
- iii. If forfeiture already rendered when defendant is prevented from appearing for above reasons, defendant or sureties has/have filed a motion to set aside judgment within 6 months of mailing.

II. SECTION II

Laws & Procedures (R.S. 15:85)

i. FAILURE TO SATISFY JUDGMENT OF BOND FORFEITURE

1. If a judgement of bond forfeiture rendered after June 22, 1993 against a commercial surety company has been satisfied within two hundred ten days from mailing the notice of the signing of the judgement of bond forfeiture, nor has a suspense appeal been timely filed, the prosecuting attorney may file with the appropriate district court a rule to show cause why that commercial surety company should not be prohibited from executing criminal bail bonds before the court issuing the judgment of bond forfeiture.
2. At a rule to show cause, the district court may consider only issues which would interrupt the enforceability of the judgement. Should the court find:
 - a. A judgement of bond forfeiture has been rendered after June 22, 1993, against the commercial surety
 - b. Proper notice pursuant to this section has been mailed
 - c. No suspensive appeal has been taken
 - d. The defendant has neither been surrendered nor appeared within six months of mailing of the notice of the signing of the judgement of bond forfeiture
 - e. Two hundred days have passed since the mailing of proper notice of the signing of the judgement of bond forfeiture
 - f. The judgement of bond forfeiture has not been satisfied by payment, then the court may issue and order enjoining the commercial surety company from posting criminal bail bonds before the court issuing the judgment of bond forfeiture if the judgment is not satisfied within the ten days.
3. The burden of proof at the hearing shall be upon the commercial surety be a preponderance of evidence and shall be limited to documents contained in the official court record where the judgment was rendered. The surety company may use evidence not contained in the record to show that it did not receive post-forfeiture notice or the post-forfeiture notice required pursuant to this section was not properly mailed.

ii. ENFORCEMENT AND COLLECTION OF JUDGMENT

1. No judgment of bond forfeiture shall be enforced or collected until the passage of 6 months after the mailing of proper notice of the signing of the judgment of bond forfeiture. The timely filing of a suspensive appeal shall suspend the enforcement or collection of the judgment of the bond forfeiture. In addition, the court may provide the court rule for the filing of an offset claim against the principal with the secretary of the Department of Revenue and Taxation, in accordance with R.S. 47:299.1 through 299.20 a judgment of bond forfeiture against a commercial surety company hasn't been suspensively appealed nor satisfied, after 6 months from mailing of proper notice of the signing of the judgment of bond forfeiture, the prosecuting attorney shall file a Rule to Show Cause with the Commissioner of Insurance in accordance with R.S. 22:658.1.

iii. COLLECTION BY INSURANCE COMMISSIONER

1. Within thirty days of the filing of a rule to show cause by the prosecuting attorney with the commissioner of insurance, the commissioner of insurance shall notify the insurance company, the surety of Lloyd's association, in writing, of the address of the home office of that organization by certified mail, setting a time, place and date of the commissioner's hearing, which shall not be more than 60 days from the date of receipt of notice from the prosecuting attorney. If after the hearing, the insurance commissioner finds that there is no just cause or legal reason for surety's nonpayment, the commissioner shall take any action deemed necessary for collection of the amount owed including suspension of the surety from doing business in the state of Louisiana.

III. SECTION III

a. Solution to Rule to Show Cause

- i. Pay bond forfeiture before the or within the time allowed by law, or if bond forfeiture is defective file motion within the time allowed by law.
- ii. Dismissed with prejudice.

b. Repercussion of Rules to Show Cause

- i. Company can be cut off in the parish where the Rule to Show Cause is located.
- ii. Company can be shut down through the whole state.
- iii. Company can be fined per Rule to Show Cause, up to \$1,000.00.
- iv. Company can lose certification to do business in Louisiana.

Art. 311 Bail Defined

Bail is the security given by a person to assure his appearance before the proper court whenever required.

Art. 312. Types of Bail

- A. There are three types or forms of bail in Louisiana:
 - a. Bail through surety
 - b. Bail through cash deposits
 - c. Bail without surety
- B. All bail must be posted in the full amount set by the court.

Art. 313. Surety

Surety is defined as a legal suretyship pursuant to the provisions of Civil Code Art. 3035 et seq.

Art. 314. Commercial Surety

A surety company authorized to do business in the state of Louisiana may become surety for the release of a person on bail. The sufficiency of security posted in the form of an appearance bond by a surety company, as required by the provisions of Title 22 of the Louisiana Revised Statutes of 1950, shall be determined solely by the commissioner of insurance.

Art. 315. Personal Surety

A personal surety must be a citizen and resident of Louisiana, and worth, considering all his property whether incorporeal movable or immovable property, the amount specified in the bail bond. The worth of the surety shall be exclusive of the amount of any other bail bond on which he may be principal or surety, exclusive of property exempt from execution, and over and above all his other liabilities. When there is more than one surety, the above requirements shall apply to their aggregate worth. No personal surety shall charge a fee or receive any compensation for posting a personal surety bond on behalf of any person.

Art. 316. Types of Personal Surety

There are two types of personal surety in Louisiana: unsecured and secured.

Art. 317. Unsecured Personal Surety

A person in custody may be released by order of the court on an unsecured personal surety bond. An unsecured surety is a personal surety where the surety meets all qualification of law and lives and resides in the judicial district where the

criminal proceeding is pending without specifically mortgaging or giving a security interest in any property as security to guarantee the surety's performance.

Art. 317.1. [Blank]

Art. 318. Secured Personal Surety

A secured personal surety is a personal surety who meets all the qualifications of law and specifically mortgages or gives security interest in immovable property located in the State of Louisiana to secure the bail obligation.

Art. 319. Proof of Security Interest

Prior to the release of any criminal defendant on a secured personal surety bond, the personal surety shall present to the officer authorized to accept the bond recorded proof of a security interest in immovable property in favor of the State of Louisiana or the proper political subdivision, as proof that the value of the security interest less any encumbrances is equal to or greater than the full amount of the bail as set by the court. These requirements shall not be waived, except on weekends or holidays, and then only when sufficient proof shall be submitted to the officer authorized to accept the bond.

Art. 320. Those Who May Not Be Sureties

A person shall not be released on bail for which an attorney at law, a judge, or ministerial officer of a court becomes a surety or provides money or property for bail; but the invalidity of such bail shall not be a defense to an action to forfeit and enforce the bail.

Art. 321. Affidavit of Surety

A personal surety shall execute an affidavit that he possesses the sufficiency and qualifications prescribed by Article 315 and that he is not disqualified from becoming a surety by Article 320. The affidavit shall list the number and amount of undischarged bail bonds, if any, entered into by the surety. The officer accepting the bail may require the surety to state in his affidavit the nature and value of his property not exempt from execution, and the amount of his liabilities. An officer authorized to accept the bail shall have authority to administer any affidavit required of the person signing a bail bond.

Art. 322. Declaration of Residence by Defendant and Surety; Waiver of Notice

- A. The defendant when signing a bail bond shall write under his signature the address at which he resides. The address shall be conclusively presumed to

continue for all proceedings on the bond, until he files in the proceedings in which the bond was given a written declaration changing the address.

- B. A personal surety signing a bail bond shall write under his signature the address at which he resides. The address shall be conclusively presumed to continue for all proceedings on the bond, until he files in the proceeding in which the bond was given a written declaration changing the address.
- C. A commercial surety shall inscribe on the face of the power of attorney used to execute the bond its proper mailing address. This address shall be conclusively presumed to continue for all the proceedings on the bond, until a written declaration changing the address is filed in the proceeding in which the bond was given.
- D. The agent or bondsman posting the bond shall write under his signature his proper mailing address. This address shall be conclusively presumed to continue for all proceedings on the bond until a written declaration changing the address is filed in the proceeding in which the bond was given.
- E. By signing the bail bond, the defendant and his surety waive any right to notice, except the notice provided for in Article 344 and R.S. 15:85.

Art. 323. Signature or Declaration of Person Unable to Write

When a person who is required to sign his name or to make a declaration in writing under the provisions of this Code swears that he cannot sign or write, the officer authorized to receive the signature or declaration in writing may, at the request of the person, sign for him or make for him the declaration in writing, with the same binding effect as if the person had himself signed or himself made the declaration in writing; provided that the declaration and signature shall be witnessed and signed by at least two competent witnesses.

Art. 324. Cash Deposits

- A. (1) In lieu of a surety, the defendant may furnish his personal undertaking, secured by a deposit with an officer authorized to accept the bail.
- (2) The deposit shall consist of any of the following which are equal to the amount of the bail:
 - a. Cash
 - b. A certified or cashier's check on any state or national bank.

- c. Bonds of the United States government negotiable by delivery.
- d. Bonds of the State of Louisiana or any political subdivision thereof negotiable by delivery.
- e. United State postal money orders or money orders issued by a state or national bank.

(3) The court in the parishes of St. John the Baptist and St. Charles, by written rule, may alter the percentage amount of bail to be deposited with the officer authorized to accept the bond and authorize the officer to charge an administrative fee, not to exceed fifteen dollars, for processing the bond.

- B. Upon final disposition of all cases in which a deposit of money, checks, bonds, or money orders has been made pursuant to this Article, and said deposits have remained unclaimed for a period of one year from the date of said final disposition, the officer authorized to accept said bail shall apply and use one-half of said funds for the operation and maintenance of the office of the Clerk of Court, or the office of the clerk of the criminal district court, or the office of the clerk of the criminal district court in parishes having a population of four hundred fifty thousand or more, and one-half to the local governing authority after advertising his intention to do so utilize said funds by publication in the official parish journal of a notice to the public containing an itemized list of all said funds on deposit, containing the names and last known addresses of defendant and the docket numbers of the cases involved. Said publication shall be made once within thirty days after the final disposition of the case aforesaid. The clerk shall also send a notice by certified mail to each of said defendants at the last known address of said defendant.
- C. After said publication and mailing of said notice by certified mail, the clerk of court, or the clerk of the criminal district court in parishes having a population of four hundred fifty thousand or more shall petition the court of proper jurisdiction for permission to utilize said funds for the use, operation, and maintenance of the office of the clerk or court or the clerk of criminal district court in parishes having a population of four hundred fifty thousand or more.
- D. When bail has been given in conformity with this Article, the money, check, bond, or money order shall not be subject to garnishment, attachment, or seizure under any legal process. An assignment or sale thereof by the owner, to be valid, must be in the form of an authentic act and filed in the

proceedings in the court having jurisdiction to discharge the bail. The property shall remain on deposit and the assignment or sale shall be contingent upon the nonforfeiture of the bail.

Art. 325. Bail Without Surety

A person in custody may be released by order of the court on his personal bail undertaking without the necessity of furnishing a surety.

Art. 325.1. Repealed by Acts 1983, No. 256 1

Art. 326. Condition of the Bail Undertaking

- A. Except as provided in Paragraph B, the condition of the bail undertaking in district, juvenile, parish, and city courts shall be that the defendant will appear at all stages of the proceedings to answer the charge before the court in which he may be prosecuted, will submit himself to the orders and process of the court, and will not leave the state without written permission of the court. The bail obligation shall run, subject to the provisions of Article 626, in favor of the state of Louisiana, or the city or parish whose ordinance is charged to have been violated, with the proceeds to be disposed of according to law. No error, inaccuracy, or omission in naming the obligee on the bond is a defense to an action thereon.

- B. Upon conviction and imposition of sentence or the pronouncement of sentence or condition of probation pursuant to Articles 893 and 894 and R.S. 40:983, the bail undertaking shall cease, and the surety shall be relieved of all obligations under the bond. If necessary to assure the presence of the defendant at all future stages of the proceedings, if any, the court may in its discretion require the defendant to post another bond or other acceptable security, or may release the defendant on bail without surety as provided for in Article 325. The court may continue the existing bail undertaking with the written approval of the surety on the bond. Such approval must be obtained after conviction and imposition of sentence or the pronouncement of sentence or conditions of probation pursuant to Articles 893 and 894 and R.S. 40:983.

Art. 327. Requisites of the Bail Undertaking

- A. The bail undertaking shall:
 - a. Be in writing.
 - b. State the court before which the defendant is bound to appear.
 - c. Be entered into before an officer who is authorized to take it.
 - d. State the amount of the bail.

- B. The bail undertaking shall be enforceable if the above requirements are met and a person shall not be discharge from his bail undertaking, nor shall a judgement of forfeiture be stayed, set aside, or reversed, nor the collection of any such judgement be barred or defeated by reason of any defect of form, omission of a recital, or of a condition of the undertaking, by reason of a failure to note or record the default of any defendant or surety, or because of any other irregularity.

Art. 328. Substitution of Security

The defendant or his surety may, at any time before a breach of the bail undertaking and with approval of the court in which the prosecution is pending, substitute another form of security authorized by this Code. The original security, including a surety, shall be released when the substitution of security is made.

Art. 329. Contract to Indemnify Surety

A contract to indemnify a surety agent against loss on a bail bond is valid and enforceable.

Art. 330. Bail Before Conviction

A person in custody charged with the commission of an offense is entitled to be admitted to bail before conviction, except as provided in Article 331.

Art. 331. Capital Offenses

- A. A person charged with the commission of a capital offense shall not be admitted to bail if the proof is evident and the presumption great that he is guilty of the capital offense.
- B. When a person is charge with the commission of a capital offense makes an application for admission to bail, the judge shall hold a hearing contradictorily with the state.
- C. The burden of proof:
 - a. Prior to indictment, is on the state to show that the proof is evident and the presumption great that the defendant is guilty of the capital offense.
 - b. After indictment, is on the defendant to show that the proof is not evident or the presumption is not great that he is guilty of the capital offense.

Art. 332. Bail After Conviction

- A. A convicted person shall be remanded to jail to await sentence unless he is released on bail in accordance with this Article.
- B. After conviction and before sentence, bail shall be allowed if the maximum sentence which may be imposed is imprisonment for five years or less. Bail may be allowed pending sentence if the maximum sentence which may be imposed is imprisonment exceeding five years, except when the court has reason to believe, based on competent evidence, that the release of the person convicted will pose a danger to any other person or the community.
- C. After sentence and until final judgment, bail shall be allowed if a sentence of five years or less is actually imposed. Bail may be allowed after sentence and until final judgment if the sentence actually imposed exceeds imprisonment for five years, except when the court has reason to believe, based on competent evidence, that the release of the person convicted will pose a danger to any other person or the community.
- D. In those instances above in which bail shall be allowed, the court shall consider whether the release of the person convicted or sentence will pose a danger to any other person or the community in determining the amount of bail.
- E. After conviction of a capital offense, a defendant shall not be allowed bail.

Art. 333. Authority to Fix Bail

The following magistrates, throughout their several territorial jurisdictions, shall have authority to fix bail:

- a. District courts having criminal jurisdiction, in all cases.
- b. City or parish courts having criminal jurisdiction, in cases not capital.
- c. Mayor's courts and traffic courts in criminal cases within their trial jurisdiction.
- d. Juvenile and family courts in criminal cases within their trial jurisdiction.
- e. Justices of the peace in cases not capital or necessarily punishable at hard labor.

Art. 334. Factors in Determining Amount of Bail

The amount of bail shall be such that, in the judgment of the court, commissioner, or magistrate, it will ensure the presence of the defendant, as required and the safety of any other person and the community, having regard to:

- a. The seriousness of the crime of violence or involvement of a controlled dangerous substance.
- b. The weight of the evidence against the defendant.
- c. The previous criminal record of the defendant.
- d. The ability of the defendant to give bail.
- e. The nature and seriousness of the danger to any other person or the community that would be posed by the defendant's release.
- f. The defendant's voluntary participation in a pre-trial drug testing program.
- g. The absence or presence of any controlled dangerous substance in the defendant's blood at the time of arrest.
- h. Whether the defendant is currently out on bond on a previous felony arrest for which he is awaiting institution of prosecution, arraignment, trial, or sentencing.
- i. Any other circumstances affecting the probability of defendant's appearance.
- j. The type or form of bail.

Art. 335. Other Conditions Related to the Appearance of Defendant

The court may impose any additional condition of release that is reasonably related to assuring the appearance of the defendant before the court. Violation of such condition by the defendant shall be considered as a constructive contempt of court, and shall be grounds for revocation of bail, but does not give rise to a forfeiture.

Art. 335.1. Offense Against a Family or Household Member; Provisions for Forfeiture, Arrest, Modification

- A. In determining condition of release of a defendant who is alleged to have committed an offense against the defendant's family or household member, as defined in R.S. 46:2132(4), the court shall consider whether the defendant poses a threat or danger to the victim. If the court determines that the defendant poses such a threat or danger, it shall require as a condition of bail that the defendant refrain from going to the residence or household of the victim, the victim's school, and the victim's place of employment or

otherwise contacting the victim in any manner whatsoever, and shall refrain from having any further contact with the victim.

- B. A violation of the conditions of release may be punishable by the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding the defendant to custody or a modification of the terms of bail.

Art. 336. Release Conditioned on Participation in Pre-Trial Drug Testing Program

- A. Every person arrested for a state crime may be required to submit a pretrial drug test for the presence of designated substances in accordance with the provisions of this Article and rules of court governing such testing. A person arrested for a state crime who tests positive for the presence of one or more of the designated substances set forth in Subparagraph (2) of Paragraph B of this Article or any person arrested for a violation of R.S. 40:961 through 1036, if released by order of court on his personal surety, shall meet the requirements of Article 315 for a personal surety and shall, as a condition of bail, be required to participate in a pretrial drug testing program.
- B. The court may, and in all parishes with a population of four hundred thousand or more persons shall, implement a pretrial drug testing program which shall provide for the following:
 - a. Mandatory participation for all persons arrested for violations of state law.
 - b. Drug testing to determine the presence of phencyclidine (PCP), opiates (heroin), cocaine, methadone, amphetamines, or marijuana, prior to first court appearance and random testing thereafter to verify that the person is drug free.
 - c. Restrictions on the use of any and all test results to ensure that they are used only for the benefit of the court to determine appropriate conditions of release, monitoring compliance with court orders, and assisting in determining appropriate sentences. A form statement shall be signed by the law enforcement agency and the person in custody stipulating that under no circumstances shall the information be used as evidence or as the basis for additional charges.
 - d. Reasonable testing procedures to ensure the fair administration of the test and protection for the chain of custody for any evidence obtained.
- C. If the person fails to comply with the pretrial drug testing program rules, the court may hold him in contempt and impose sanctions the court deems

appropriate, including the posting of additional bail.

- D. No person shall be released under the provisions of the pretrial drug testing program unless he agrees to do the following:
 - a. Submit to continued random testing to verify that he is drug free.
 - b. Refrain from the use of possession of any controlled dangerous substance or any substance designated by the court.
- E. Implementation of any pretrial drug testing program authorized pursuant to the provisions of this Article shall be contingent upon receipt by the court requiring the test of sufficient federal or other funding to conduct the testing program in accordance with the provisions of this Article and any rules of court.
- F. No elected official who is in any way connected with the administration of the pretrial drug testing program provided for in this Article, either directly or indirectly, shall have any financial interest, either directly or indirectly, in any drug testing company participating in such pretrial drug testing program.
- G. All contracts awarded to any drug testing company authorized to conduct the pretrial drug testing program provided for in this Article shall be awarded in accordance with the provisions governing public bids. R.S. 38:2181 et seq.

Art. 336.1, 336.2 [Blank]

Art. 337. Juvenile Records to Determine Bail

- A. For the purpose of fixing bail, a magistrate may make a written request of any juvenile court for an abstract containing only the delinquent acts of a defendant currently before the requesting magistrate. The request shall be promptly complied with; however, not more than forty-eight hours, exclusive of Saturdays, Sundays, and legal holidays, shall lapse before the requested information is deposited in the mail, addressed to the requesting court.
- B. The requesting court shall not copy, duplicate, or otherwise reproduce such juvenile records, and these shall be deposited in the mail and addressed to the issuing juvenile court within seventy-two hours, exclusive of Saturdays, Sundays, and legal holidays, after bail is determined.
- C. Failure to comply with the provisions of this Article shall subject the violating court to disciplinary action by the Supreme Court of Louisiana upon receipt

by the judicial administrator of the supreme court of a written complaint, subsequently substantiated.

Art. 338. Forms and Contents of Bail Order

An order fixing bail shall be in writing, specify the amount and type of bail, and designate the officer or officers authorized to accept the bail, and shall be signed by the magistrate. The order may issue on motion of the state or defendant, or on the magistrate's own initiative. In any parish with a population in excess of four hundred ninety thousand, the magistrate or district court shall hold a contradictory hearing prior to fixing bail in any felony case.

Art. 339. Elections of Types of Bail

Once the amount of bail has been fixed by the court, the defendant, in posting the bond, shall have the right to select either a commercial surety, a secured personal surety, or a cash deposit. However, the court may elect to release the defendant on an unsecured personal surety or a bail without surety. The election of the unsecured personal surety or bail without surety by the court shall be expressed in the bail order.

Art. 340. Amount of Bail in Felony Cases; Schedules of Bail in Noncapital Cases

- A. Unless the bail is fixed by a schedule in accordance with Paragraph B, the amount of bail in felony cases shall be specifically fixed in each case. A person shall not be released on bail pursuant to a general order which authorizes the sheriff, or other officers, to take bail and fixes the amount thereof at a certain sum for particular felonies.
- B. A schedule of bail according to the offense charged in noncapital felony cases may be fixed by a district court. The court order setting the bail schedule shall fix the amount of bail for each offense listed, designate the officer or officers authorized to accept the bail, and order that bail be taken in conformity with the schedule. It may also contain a general provision designating the amount of bail for any non-capital felony not listed in the schedule. A copy of the schedule shall be sent to all jails, sheriff's offices, and police stations within the judicial district. A bail schedule may be revised or rescinded at any time.
- C. A person charged with the commission of a felony for which bail is fixed by a schedule may give bail according to the schedule or demand a special order

fixing bail.

- D. Bail herein may be set above the scheduled amount if the court deems it appropriate or the district attorney moves for good cause to have the bail set above the scheduled amount and the court finds it appropriate.
- E. In any parish with a population in excess of four hundred ninety thousand, the magistrate or district court shall hold a contradictory hearing prior to fixing bail in any felony case.

Art. 341. Schedule of Bail in Misdemeanor Cases

- A. Schedules of bail according to the offense charged in misdemeanor cases may be fixed by district, parish, and city courts for offenses within their respective trial jurisdictions. The type or form of bail shall not be set in the bail schedule. When more than one court has trial jurisdiction over an offense, the applicable bail schedule shall be that of the court in which the case is to be tried.
- B. The court order setting the bail schedule shall fix the amount of bail for each offense listed, designate the officer or officers authorized to accept the bail, and order that bail be taken in conformity with the schedule. It may also contain a general provision designating the amount of bail for any misdemeanor not listed in the schedule. A copy of the schedule shall be sent to all jails, sheriff's offices, and police stations within the judicial district, parish, or city, respectively. A bail schedule may be revised or rescinded at any time.
- C. If a bail schedule has been set up and bail has not previously been specially fixed, a person charged with the commission of a misdemeanor has the right either to give bail according to the bail schedule, or to demand a special order fixing type or form of bail and amount of bail.

Art. 342. Increase or Reduction of Bail; Sufficiency of Security

- A. The court having trial jurisdiction over the offense charged, on its own motion or on motion of the state or defendant, for good cause may either increase or reduce the amount of bail or require new or additional security. For purposes of this Article, good cause for increase of bail specifically includes but is not limited to the rearrests of the defendant on offenses alleged to have been committed while out on bond. However, in any parish with a

population in excess of four hundred ninety thousand, the district court shall hold a contradictory hearing prior to a modification of the bail order. The modification of any bail order wherein a bail bond has been posted by a criminal defendant and his sureties shall upon said modification terminate the liability of the defendant and his sureties under the previously existing bail contract. A new bail must be posted in the amount of the new bail order.

Art. 343. Remedy for Refusal of Bail or Excessive Bail

A person held may invoke the supervisory jurisdiction of the court of appeal on a claim that the trial court has improperly refused bail or a reduction of bail in a bailable cause.

Art. 344. Right to Notice of Time and Place of Defendant's Required Appearance

- A. When a bail bond fixes the initial appearance date, no additional notice is required to be given to the defendant or the personal surety or the commercial surety or the agent or bondsman who posted the bond for the commercial surety, if the defendant appears as ordered. If a defendant fails to appear when a bail bond faces the initial appearance date, no additional pre-forfeiture notice for that date is required to be given to the defendant or the personal surety or the commercial surety or the agent or bondsman who posted the bond for the commercial surety. The bond shall be forfeited forthwith as per R.S. 15:85.
 - i. When a bail bond does not fix the appearance date, and the presence is required of a person who has been released on bail, the defendant and his personal surety or the commercial surety or the agent or bondsman who posted the bond for the commercial surety, shall be given written notice of the time, date, and place the principal is required to appear.
 - ii. The notice may be delivered to the defendant and the personal surety or the commercial surety or the agent or bondsman who posted the bond for the commercial surety by an officer designated by the court, at least two days prior to the day set for the appearance; or this notice may be mailed by United States first class mail to the defendant and his personal surety or the commercial surety or the agent or bondsman who posted the bond for the commercial surety, at least three days prior to the day set for the appearance.

- iii. If the defendant appears as ordered and the proceeding is continued to a specific date the defendant and the personal surety or the commercial surety or the agent or bondsman who posted the bond for the commercial surety need not be given notice of the new appearance date. IF the defendant fails to appear as ordered, or the proceeding is not continued to a specific date, the personal surety or the agent or bondsman who posted the bond for the commercial surety shall be given notice of the new appearance date.
- iv. Failure to give notice, as required by the Paragraph, relieves the surety from liability on a judgement of bond forfeiture for the defendant's nonappearance on that particular date.

Art. 345. Surrender of Defendant

- A. A surety may surrender the defendant, or the defendant may surrender himself, in open court or to the officer charged with his detention, at any time prior to forfeiture or within the time allowed by law for setting aside a judgement of forfeiture of the bail bond. For the purpose of surrendering the defendant, the surety may arrest him. Upon surrender of the defendant, the officer shall detain the defendant in his custody as upon the original commitment and shall acknowledge the surrender by a certificate signed by him and delivered to the surety. Thereafter, the surety shall be fully and finally discharged and relieved of any and all obligation under the bond.
- B. If the defendant is incarcerated by the officer originally charged with his detention at any time prior to forfeiture or within the time allowed by law for setting aside a judgement for forfeiture of the bail bond, the surety may apply for and receive from the officer charged with the detention of the defendant a letter verifying that the defendant is incarcerated, but only after the surety verifies to the satisfaction of the officer charged with the detention of the defendant as to identify the defendant. Thereafter, the surety shall by fully and finally discharged and relieved of any and all obligation under the bond.
- C. When a surety receives either a certificate of surrender provided for in Paragraph A or a letter of verification as provided for in Paragraph B, the surety shall pay a fee of twenty five dollars to the officer charged with the defendant's detention for recalling the capias, accepting the surrender or verifying the incarceration, processing the paperwork, and giving the surety

a certificate of surrender or a letter of verification of incarceration releasing him from his obligation under the defendant's bond.

- D. If during the six-month period allowed for the surrender of the defendant, the defendant is found to be incarcerated in another parish of the state of Louisiana, or a foreign jurisdiction, the judgement of bond forfeiture is deemed satisfied if all of the following conditions are met.
- i. The defendant or his sureties file a motion in summary proceeding within the six-month period.
 - ii. The defendant's sureties produce to the court adequate proof of defendant's incarceration, or the officer originally charged with defendant's detention verifies the defendant's incarceration.
 - iii. The defendant's sureties pay the officer originally charged with the defendant detention, the reasonable cost of returning the defendant to the officer originally charged with the defendant's detention.
- E. At any time prior to forfeiture or within the time allowed by law for setting aside a judgement for forfeiture of the bail bond, the surety may present to the court a certificate of death naming the defendant as the deceased party. The certificate shall be under seal of the authority confirming the defendant's death. Thereafter, the surety shall be full and finally discharged and relieved of any and all obligation under the bond.
- F. When the defendant has been surrendered in conformity with this Article or a letter of verification of incarnation has been issued to the surety as provided for in Paragraph B of this article, the court shall, upon presentation of the certificate of surrender or the letter of verification of incarceration, order that the surety be exonerated from liability on his bail undertaking and shall order any judgement of forfeiture set aside.

Art. 346. Court Order for Arrest of Defendant

- A. The court in which the defendant is held to answer may issue a warrant for the arrest and commitment of the defendant who is at large on bail when any of the following are true:
- i. There has been a breach of the bail undertaking.

- ii. It appears that a surety has become insufficient, is dead, cannot be found, or has ceased to meet the qualifications of law or does not own adequate immovable property within the state.
- iii. The court is satisfied that the bail should be increased, or new or additional security required.

Art. 347. Bail After Surrender

A defendant who surrendered himself under the provisions of Article 345 or has been rearrested under the provisions of Article 346 is entitled to bail in accordance with this Code.

Art. 348. Cancellation of Bail Bond

The court shall order the bail bond canceled when there is no further liability thereon.

BAIL

81. Bond for Release for Violation of Municipal Ordinances; Parole or Release of Prisoners; Penalty.

- A. At the earliest practicable time after arrest of a person imprisoned or detained for violation of any ordinance of any village, town, city or municipality an order admitting to bail shall be made. Upon execution of the bond in due form and with proper surety the arrested person shall be released pending trial.

- B. Except in municipalities or wards in which a city court vested with criminal jurisdiction exists, no bond for release shall exceed one hundred dollars. In municipalities having criminal jurisdiction it shall not exceed twenty-five dollars.

- C. A person unable to finish other security may deposit the amount of the bond in cash. The officer taking the money shall give him a receipt for the deposit. Upon his appearance before any court in compliance with the condition of the bond, the money deposited shall be refunded to him,

- D. Within one-half hour after arrest, the captain, police clerk, or arresting officer of the station where the person is being detained shall have the name of the arrested person placed on a placard visible for public display in the main office of the police station. The placard must be presented to any and all persons inquiring or requesting a view or perusal of it.

- E. The parole or release from custody of any person arrested or detained for violation or alleged violation of an ordinance of any village, town, city or other municipality shall be executed in accordance with provisions of the Section. A municipality, by ordinance, may specifically grant power of parole and release to the presiding judges and officers of its municipal courts.

- F. In cities having a population of more than 300,000 the parish parole officer of the state board of parole and each of the members of the jury commission of the parish in which the municipality is located shall have the power to parole and release persons arrested or detained for alleged violation of any such municipalities' ordinances.

G. Whoever violates or advises, consents, aids, or abets in the violation of this Section shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not less than sixty days nor more than twelve months, or both.

82. Guaranteed Arrest Bond Certificates as Cash Bail; Forfeiture; Sureties.

A. A guaranteed arrest bond certificates with respect to which a fidelity and surety company has become surety as provided in Subsection B of this section, when posted by the person whose signature appears thereon, shall be accepted in lieu of cash bail in an amount not to exceed two hundred dollars, as a bail bond, to guarantee the appearance of such person in any court in this state at such time as may be required by the court, when such person is arrested for violation of any motor vehicle law of this state or ordinance of any municipality of parish in this state, except for the offense of driving while intoxicated or for any felony, and the alleged violation was committed prior to the date of expiration shown on such guaranteed arrest bond certificate.

i. Any such guaranteed arrest bond certificate so posted as a bail bond in any court in this state shall be subject to the forfeiture and collection provisions of law applicable to a bail bond, except that any judgement forfeiting a guaranteed arrest bond certificate rendered under said forfeiture and collection provisions shall, at any time within thirty days after rendition, be set aside under the surrender, or the appearance and trial and conviction or acquittal of the defendant, or upon a continuance granted upon motion of the district attorney after such appearance.

B. Any domestic or foreign insurance company which has qualified to transact fidelity and surety insurance business in this state may, in any year, become surety in an amount not to exceed two hundred dollars with respect to each guaranteed arrest bond certificate issued in such year by an automobile club, automobile association or insurance company authorized to transact automobile liability insurance business within this state or by the fidelity and surety company itself.

i. The term “guaranteed arrest bond certificate” as used herein, means a printed card or other certificate issued by an automobile

club, automobile association, insurance company authorized to transact automobile liability insurance business within this state or an insurance company authorized to transact fidelity and surety insurance business within this state to any of its members or insured, which is signed by such member or insured, and contains a printed statement that a fidelity and surety company authorized to do business in this state guarantees the appearance of the person whose signature appears on the card or certificate, and that such company will, in the event of the failure of said person to appear in court at the time of the trial, pay any fine or forfeiture imposed on such person in an amount not to exceed two hundred dollars.

- ii. The issuance of a “guaranteed arrest bond certificate,” as hereinabove defined, by an automobile club, automobile association or insurance company not authorized to transact fidelity and surety insurance business in this state shall not be construed as engaging in fidelity and surety insurance business in this state by such automobile club, automobile association or insurance company.

83. Blank.

84. Repealed by Acts 1993, No. 834, 6, eff. June 22, 1993.

85. Forfeiture, Procedure, Notice, and Collection.

A. All bonds taken to secure the appearance of any person before any court executed in the state of Louisiana shall be forfeited and collected as follows:

- i. **Failure to appear and answer.** If at any time fixed for appearance the defendant fails to appear and answer when called, the judge, on motion of the prosecuting attorney, upon hearing of proper evidence including: the bail contract; the power of attorney if any; and the notice to the defendant and the surety as required by Article 344 of the Code of Criminal Procedure, shall immediately and forthwith issue a warrant for the arrest of the person failing to appear and order a judgment decreeing the forfeiture of the bond and against the defendant and his sureties in solido for the full amount of the bond.
- ii. **Signing of the judgement of bond forfeiture.** Following the defendant’s failure to appear, the court shall sign a written

judgement of bond forfeiture.

iii. **Notice of judgement.**

(A) After entering the fact of the signing of the judgement of bond forfeiture in the court minutes, the clerk of court shall promptly mail notice of the signing of the judgement of bond forfeiture. The notice of the signing of the judgement shall be mailed by United States certified mail with return receipt to all of the following:

- a. The defendant at the address designated pursuant to Code of Criminal Procedure Art. 322.
- b. The personal sureties at the addresses designated pursuant to Code of Criminal Procedure Art. 322.
- c. The agent or bondsman who posted the bond for the commercial sureties at the address designated pursuant to Code of Criminal Procedure Art. 322.
- d. The commercial sureties at the addresses designated pursuant to Code of Criminal Procedure Art 322. Notice to the commercial sureties shall include the power of attorney number used to execute the bond.

(B) After mailing the notice of the signing of the judgment of bond forfeiture, the clerk of court shall execute an affidavit of the mailing and place the affidavit and the return receipts in the record.

(C) Failure to mail proper notice of the signing of the judgement within sixty days after the defendant's failure to appear shall release the sureties of any and all obligations under the bond.

iv. **Recordation of judgement.** After mailing notice of the signing of the judgement of bond forfeiture, the district attorney shall cause the judgement to be recorded in every parish in which he thinks the recordation is proper. Every such recordation shall be without cost and shall operate as a judicial mortgage against the defendant and all his sureties.

v. **Summary proceedings.** The defendant and his sureties shall be entitled to bring defenses and actions in nullity by use of summary proceedings in the criminal matter before the trial court which

issued the judgement of bond forfeiture within sixty days from mailing the notice of the signing of the judgement of bond forfeiture. Any summary proceedings brought by the defendant or his sureties within the sixty days period shall be determined by the court within one hundred and eighty days of mailing the notice of the signing of the judgement of bond forfeiture. The defendant and his sureties shall be entitled to bring defenses pursuant to Code of Criminal Procedure Art 345 and R.S. 15:87 by use of summary proceedings in the criminal matter before the trial court which issued the judgment of bond forfeiture within six months from mailing the notice of the signing of the judgment of bond forfeiture.

vi. **Appeals.**

- (A) The defendant and his sureties shall have the right to an appeal that suspends the effect or the execution of the judgement of bond forfeiture. The security to be furnished for this suspensive appeal shall be equal to the bail obligation.
- (B) The defendant and his sureties shall have the right to a Devolutive appeal of the judgement of bond forfeiture.
- (C) All appeals shall be to the appellate court having general civil appellate jurisdiction over the court issuing the judgement of bond forfeiture.

- vii. **Enforcement and collection of judgement.** No judgement of bond forfeiture shall be enforced or collected until the passage of six months after the mailing of proper notice of the signing of the judgement of bond forfeiture. The timely filing of a suspensive appeal shall suspend the enforcement or collection of the judgement of the bond forfeiture. In addition, the court may provide by court rule for the filing of an offset claim against the principal with the secretary of the Department of Revenue and Taxation, in accordance with R.S. 47:299.1 through 299.20. If a judgement of bond forfeiture against a commercial surety company has not been suspensively appealed nor satisfied, after six months from mailing proper notice of the signing of the judgment of bond forfeiture, the prosecuting attorney shall file a rule to show cause with the commissioner of insurance in accordance with R.S. 22:658.1.

- viii. **Collection by insurance commissioner.** Within thirty days of the filing of a rule to show cause by the prosecuting attorney with the commissioner of insurance, the commissioner of insurance shall notify the insurance company, the surety or Lloyd's association, in writing at the address of the home office of that organization by certified mail setting a time, place, and date of the commissioner's hearing, which shall not be more than sixty days from the date of receipt of notice from the prosecuting attorney. If after the hearing, the insurance commissioner finds that there is no just cause of legal reason for the surety's nonpayment, the commissioner shall take any action deemed necessary for collection of the amount owed, including suspension of the surety from doing business in the state of Louisiana.
- ix. **Nullity actions.** Nullity actions pursuant to Code of Civil Procedure Art 2001 et seq. not filed within sixty days provided for filing summary proceedings shall be brought by the use of ordinary civil proceedings.
- x. **Satisfaction of judgement of bond forfeiture.** Any judgement forfeiting the appearance bond rendered according to this Section shall at any time, within six months, after mailing of the notice of the signing of the judgment of bond forfeiture, be fully satisfied and set aside upon the surrender or the appearance of the defendant. The appearance of the defendant shall operate as a satisfaction of the judgment and the surrender shall operate as a satisfaction of the judgement and shall fully and finally relieve the surety of any and all obligations under the bond. Any judgement forfeiting the appearance bond rendered according to this Section shall at any time, within ten days after the expiration of the six month period provided to surrender the defendant, be fully satisfied by the payment of the amount of the bail obligation without incurring any interest, costs, or fees.
- xi. **Failure to satisfy judgement of bond forfeiture.**
(A) If a judgement of bond forfeiture rendered after June 22, 1993 against a commercial surety company has not been satisfied

within two hundred ten days from mailing the notice of the signing of the judgment of bond forfeiture, nor has a suspensive appeal been timely filed, the prosecuting attorney may file with the appropriate district court a rule to show cause why that commercial surety company should not be prohibiting from executing criminal bail bonds before the court issuing the judgment of bond forfeiture.

(B) At the rule to show cause, the district court may consider only issues which would interrupt the enforceability of the judgement. Should the court find:

- a. A judgement of bond forfeiture has been rendered after June 22, 1993 against the commercial surety.
- b. Proper notice pursuant to R.S. 15:85 has been mailed.
- c. No suspensive appeal has been taken.
- d. The defendant has neither been surrendered nor appeared within six months of mailing of the notice of the signing of the judgement of bond forfeiture.
- e. Two hundred and ten days have passed since the mailing of proper notice of the signing of the judgement of bond forfeiture.
- f. The judgement of bond forfeiture has not been satisfied by payment, then the court may issue an order enjoining the commercial surety company from posting criminal bail bonds before the court issuing the judgement of bond forfeiture if the judgment is not satisfied within the ten days.

(C) The burden of proof at the hearing shall be upon the commercial surety by a preponderance of evidence and shall be limited to documents contained in the official court record where the judgment was rendered. The surety company may use evidence not contained in the record to show that it did not receive post-forfeiture notice, or the post-forfeiture notice required pursuant to R.S. 15:85 was properly mailed.

85.1 Repealed by Acts 1993, No. 834, 6, eff. June 22, 1993.

86. Forfeiture of Cash, Checks, or Securities

- A. When the court declares a forfeiture of cash, a check, a negotiable bond or a money order which has been deposited as bail, the court shall order the disposition of such security in satisfaction of the bail obligation.
- B. When the bail undertaking is discharged, the court shall order the security returned to the depositor. Upon presentation of a certified copy of the order, the custodian of the security shall pay or deliver it to the person named therein or to his order.

86.1 Unclaimed Bail Bonds; Disposition; Return to Owner

- A. Notwithstanding any other provision of law to the contrary, any sheriff having possession or control of cash bail bonds which have been discharged and which remain unclaimed for more than three years, or which belong to an owner who is unknown or who has not been heard from for more than three years, shall deposit the same into the general fund of the sheriff and thereafter the sheriff shall assume liability therefor. However, in the parishes of Caddo, Plaquemines, East Baton Rouge, Bossier, and St. Mary, the sheriff shall pay such funds to the treasurer of the governing authority, who shall collect and receive this money and deposit it to the credit for the general fund, and thereafter the sheriff shall be relieved of all liabilities therefor.
- B. Any owner who claims a cash bail bond which has been deposited in the general fund of the sheriff or, in Caddo, Plaquemines, East Baton Rouge, Bossier, and St. Mary parishes, in the governing authority's general fund, pursuant to this Section shall be reimbursed from the Sheriff's general fund or said governing authority's general fund upon establishing his claim thereto by a judgement of a court of competent jurisdiction. Upon being presented with a certified copy of the judgement, the sheriff or, in Caddo, Plaquemines, East Baton Rouge, Bossier, and St. Mary parishes, the treasurer shall draw a warrant and pay out of the general fund of the Sheriff in in Caddo, Plaquemines, East Baton Rouge, Bossier, and St. Mary parishes, the general fund of the governing authority, the amount of the judgment.

86.2 City Court of Thibodaux; Unclaimed Bail Bonds; Disposition; Return to Owner

- A. Notwithstanding any other provision of law to the contrary, the City Court of the city of Thibodaux having in its control or possession cash bail bonds which have been discharged and which remain unclaimed for more than three years, or which belong to an owner who is unknown or has not been heard

from for more than three years, shall pay the same, in cases involving the violation of state law, to the treasurer of the governing authority of Lafourche Parish for deposit in the criminal court's fund of the parish or in cases involving a violation of a city ordinance, to the trustee of public finance or director of finance of the governing authority for the city of Thibodaux, and in both instances thereafter the City Court of Thibodaux shall be relieved of all liability therefor.

- B. Where the cash bail bond involves the violation of a state law the treasurer of the governing authority of Lafourche Parish shall collect and receive this money and shall deposit it to the credit of the Lafourche Parish criminal court's fund. Where the cash bail bond involved the violation of a city ordinance, the trustee of public finance or director of finance of the governing authority for the city of Thibodaux shall collect and receive this money and shall deposit it to the credit of the general fund of the City of Thibodaux.
- C. Any owner who claims a cash bail bond which has been deposited in either the Lafourche Parish general fund or the criminal court's fund of the city of Thibodaux pursuant to this section shall be reimbursed from the general fund or the criminal court's fund involved, upon establishing his claim thereto by a judgment of a court of competent jurisdiction. Upon being presented with a certified copy of the judgment either the parish treasurer or the trustee of public finance or director of finance, as the case may be, shall draw a warrant and pay out of the appropriate general fund the amount of the judgment without the necessity of an appropriation by the respective governing authority.

86.3 Repealed by Acts 1993, No. 708, 1

87. Non-forfeiture Situations

- A. No judgement decreeing the forfeiture of an appearance bond shall be rendered, if it is shown to the satisfaction of the court that the defendant, principle in such bond, is prevented from attending because of any of the following:
 - a. He has a physical disability, illness or injury.
 - b. He is being detained in jail, or penitentiary of another jurisdiction.
 - c. He is serving the armed forces of the United States.

- B. A sworn affidavit of the jailer, warden, physician, commanding officer, or other responsible officer where the principle is detained, who attests the cause of the defendant's failure to appear shall be considered adequate proof the defendant/principle's inability to appear.

- C. If a judgement of bond forfeiture is rendered while the defendant is prevented from appearing for reasons enumerated in this Section, the court shall declare the judgement of bond forfeiture null and void if the defendant or his sureties file a motion to set aside the judgement of bond forfeiture within six months of the mailing of notice of the signing of the judgement of bond forfeiture, and it is shown to the satisfaction of the court that the defendant was prevented from attending for the causes enumerated in this section.

88. Appearance Bond Defined.

The term "appearance bond" shall be taken and intended to mean every bail bond recognizance or other obligation, or deposit of cash, checks, negotiable bonds or money orders made or taken to secure the appearance of any person before any court; but in all cases where cash, checks, negotiable securities or money order have been deposited in lieu of bond with a surety, in case of discharge or forfeiture, the same shall be disposed of as otherwise provided by law.

89. Prescription for Forfeiture Judgment; Revival.

- A. Every judgment decreeing the forfeiture of any appearance bond, and every mortgage resulting from the recordation of such judgment, shall be prescribed by the lapse of ten years from the rendition of such judgment; however, that the district attorney or any party in interest may have such judgment revived at any time before it is prescribed by taking, in the court which rendered said judgment, a rule upon the persons against whom said judgement was rendered, to show cause why the same should not be revived and unless, upon the trial of said rule, such cause be shown, said judgement shall be revived.

- B. Any judgment revived as above provided shall continue in full force for ten years from the date of the order reviving the same, and any such judgement may be revived as often as the district attorney or any party interested may desire.