

§ 15A-544.3. Entry of forfeiture.

(a) If a defendant who was released under Part 1 of this Article upon execution of a bail bond fails on any occasion to appear before the court as required, the court shall enter a forfeiture for the amount of that bail bond in favor of the State against the defendant and against each surety on the bail bond.

(b) The forfeiture shall contain the following information:

- (1) The name and address of record of the defendant.
- (2) The file number of each case in which the defendant's appearance is secured by the bail bond.
- (3) The amount of the bail bond.
- (4) The date on which the bail bond was executed.
- (5) The name and address of record of each surety on the bail bond.
- (6) The name, address of record, license number, and power of appointment number of any bail agent who executed the bail bond on behalf of an insurance company.
- (7) The date on which the forfeiture is entered.
- (8) The date on which the forfeiture will become a final judgment under G.S. 15A-544.6 if not set aside before that date.
- (9) The following notice: "TO THE DEFENDANT AND EACH SURETY NAMED ABOVE: The defendant named above has failed to appear as required before the court in the case identified above. A forfeiture for the amount of the bail bond shown above was entered in favor of the State against the defendant and each surety named above on the date of forfeiture shown above. This forfeiture will be set aside if, on or before the final judgment date shown above, satisfactory evidence is presented to the court that one of the following events has occurred: (i) the defendant's failure to appear has been stricken by the court in which the defendant was required to appear and any order for arrest that was issued for that failure to appear is recalled, (ii) all charges for which the defendant was bonded to appear have been finally disposed by the court other than by the State's taking a voluntary dismissal with leave, (iii) the defendant has been surrendered by a surety or bail agent to a sheriff of this State as provided by law, (iv) the defendant has been served with an Order for Arrest for the Failure to Appear on the criminal charge in the case in question as evidenced by a copy of an official court record, including an electronic record, (v) the defendant died before or within the period between the forfeiture and the final judgment as demonstrated by the presentation of a death certificate, (vi) the defendant was incarcerated in a unit of the Division of Prisons of the Department of Adult Correction and is serving a sentence or in a unit of the Federal Bureau of Prisons located within the borders of the State at the time of the failure to appear as evidenced by a copy of an official court record or a copy of a document from the Division of Prisons of the Department of Adult Correction or Federal Bureau of Prisons, (vii) the defendant was incarcerated in a local, state, or federal detention center, jail, or prison located anywhere within the borders of the United States at the time of the failure to appear, or between the failure to appear and the final judgment date, and the district attorney for the county in which the charges are pending was notified of the defendant's incarceration while the defendant was still incarcerated and the defendant remains incarcerated for a period of 10 days following the district attorney's receipt of notice, as evidenced by a copy of the written notice served on the district attorney via

hand delivery or certified mail and written documentation of date upon which the defendant was released from incarceration, if the defendant was released prior to the time the motion to set aside was filed, (viii) notice of forfeiture was not provided pursuant to G.S. 15A-544.4(e), or (ix) the court refused to issue an order for arrest for the defendant's failure to appear, as evidenced by a copy of an official court record, including an electronic record. The forfeiture will not be set aside for any other reason. If this forfeiture is not set aside on or before the final judgment date shown above, and if no motion to set it aside is pending on that date, the forfeiture will become a final judgment on that date. The final judgment will be enforceable by execution against the defendant and any accommodation bondsman and professional bondsman on the bond. The final judgment will also be reported to the Department of Insurance. Further, no surety will be allowed to execute any bail bond in the above county until the final judgment is satisfied in full." (2000-133, s. 6; 2007-105, s. 2; 2011-145, s. 19.1(h); 2012-83, s. 25; 2017-186, s. 2(yy); 2021-180, s. 19C.9(p); 2022-73, s. 3(a).)