

**A. General Procedure For Surety To Be Relieved On Bond For Good Cause (Non-emergency/Non-Incarceration), §38-53-50(A)**

1. Surety must file with the clerk of court<sup>1</sup> a motion to be relieved on the bond and pay clerk \$20 filing fee<sup>2</sup>.
2. Surety must serve copy of motion on defendant, his attorney, and the solicitor/prosecutor.
3. Court must schedule and hold hearing with notice given to all parties, including surety.
4. If the surety is relieved by order of the court, a new undertaking must be filed with the appropriate court in order to secure the subsequent release of the defendant. The undertaking must contain the same conditions included in the original bond, unless conditions have been changed by the court. Notice of court action should be provided to the detention facility.
5. If the court refuses to relieve the surety from the bond, the defendant should be discharged under the original undertaking, unless amended by the court.

**B. Procedure Where Surety Incarcerates Defendant To Prevent Imminent Violation Or Violation Of Specific Term(s) Of Bond, §38-53-50(B)**

1. Surety may take defendant to the appropriate detention facility for holding until the court orders that the surety be relieved.
2. Surety must provide detention facility with an affidavit (non-clocked) stating the facts to support the surrender of the defendant for good cause (to prevent imminent violation of specific term(s) of bond or a violation has been committed). Detention facility must hold the defendant with the non-clocked affidavit until surety provides a court clocked affidavit.
3. Nonpayment of fees alone is not sufficient cause to warrant immediate incarceration of the defendant.
4. Within three (3) business days following recommitment, surety must file with the court the affidavit as described in #2 above. Clerk must clock the affidavit.
5. When the affidavit is filed with the clerk, the surety must also file motion to be relieved on the bond, along with a \$20.00 filing fee.
6. Surety must immediately provide a clocked copy of the affidavit to the detention facility. If surety fails to provide detention facility with clocked copy of the affidavit within three (3) business days, detention facility should contact the court for instruction. Surety non-compliance may result in discharge of defendant on original undertaking.
7. Court must promptly hold a hearing on the issue with notice given to all parties, including the defendant, prosecutor, and surety.
8. If the surety is relieved by order of the court, a new undertaking must be filed with the court in order to secure the subsequent release of the defendant. The undertaking

---

<sup>1</sup> Documentation shall be filed with Clerk of Circuit Court if defendant charged with General Sessions charge(s). Documentation shall be filed with summary court if charged with summary level offense.

<sup>2</sup> Clerk of Circuit Court retains \$20.00 for use in operation of office. Summary court shall forward \$20.00 to local treasurer for deposit into County/Municipal General Fund.

- must contain the same conditions included in the original bond, unless conditions have been changed by the court. Notice of court action should be provided to the detention facility.
9. If the court refuses to relieve the surety from the bond, the defendant should be discharged under the original undertaking, unless amended by the court.

**C. Procedure Where Defendant Is Incarcerated By The Surety Or Law Enforcement As A Result Of A Bench Warrant, §38-53-50(C)**

1. The surety shall file an affidavit with the court stating that the defendant is incarcerated in the appropriate detention facility as a result of the bench warrant. Surety must include in the affidavit the defendant's violation of the specific term(s) of the bond as stated in the bench warrant.
2. Upon filing the affidavit, the surety is immediately relieved of all liability on the bail bond. Surety is not required to file a motion to be relieved and is not required to pay a filing fee.
3. Defendant remains in custody. A new undertaking must be filed with the court in order to secure the subsequent release of the defendant. The undertaking must contain the same conditions included in the original bond, unless conditions have been changed by the court. Notice of court action should be provided to the detention facility.