

**BOND FORFEITURE DEFENSE CHECKLIST**

**I. Case Information:**

Cause No.: \_\_\_\_\_ Defendant: \_\_\_\_\_

Amount of Bond: \_\_\_\_\_ Date Bond Posted: \_\_\_\_\_

Original Charge: Misd. or Fel. (circle one) Date Bond Forfeited: \_\_\_\_\_

Date of Rearrest: \_\_\_\_\_ (If applicable)

**II. Potential Defenses Pre-Forfeiture:**

- \_\_\_ A. You previously filed an affidavit surrendering the bond and the surrender was verified by the Sheriff's office pursuant to article 17.16 of the Texas Code of Criminal Procedure (attach copy).
- \_\_\_ B. You previously requested a warrant and had the defendant rearrested pursuant to article 17.19 of the Texas Code of Criminal Procedure.
  - \_\_\_ i. The trial court denied your request for a warrant and the denial is documented (attach copy)
- \_\_\_ C. Motion to Discharge Bond was previously filed and granted by the trial court.

**III. Potential Defenses Post-Forfeiture (WITH NO COURT COSTS):**

- \_\_\_ A. The Bond is not a valid and binding undertaking in law. Tex. Code Crim. Pro. art. 22.13 (a).
  - \_\_\_ i. The bond was not signed by the defendant.
  - \_\_\_ ii. The bond was not signed by the surety.
- \_\_\_ B. The defendant died before the date of his hearing for which he failed to appear.
- \_\_\_ C. The defendant failed to appear because he was sick or because of some other uncontrollable circumstance which was not caused by any fault on his part (attach supporting documentation).

**FOR THIS TO APPLY THE DEFENDANT HAS TO HAVE RETURNED BEFORE FINAL JUDGMENT ON THE FORFEITURE OR YOU HAVE TO SHOW GOOD CAUSE WHY THE DEFENDANT HAS NOT REAPPEARED.**
- \_\_\_ D. The defendant was not indicted timely. He was indicted more than a year after he was arrested. ASSUME DEFENSE DOES NOT APPLY IN HARRIS COUNTY. (Check to see if the D.A.'s office has an order continuing prosecution to the next term of the grand jury).

**IV. Potential Defenses Post-Forfeiture (WITH COURT COSTS):**

- \_\_\_ A. For misdemeanors, the defendant was rearrested within 180 days of the date of his failure to appear. Tex. Code Crim. Pro. art. 22.13 (a) (5).
- \_\_\_ B. For felonies, the defendant was rearrested within 270 days of the date of his failure to appear. Tex. Code Crim. Pro. art. 22.13 (a) (5).

**V. Requests for Remittitur (before final judgment):**

- \_\_\_ A. Mandatory Remittitur. Tex. Code Crim. Pro. art. 22.16 (a). (WILL STILL OWE COURT COSTS)
  - \_\_\_ i. Defendant has been released on a new bond in the same case.
  - \_\_\_ ii. The underlying criminal case has been dismissed.
- \_\_\_ B. Discretionary Remittitur. Tex. Code Crim. Pro. art. 22.16 (b). (AT THE COMPLETE DISCRETION OF THE TRIAL COURT AND COULD BE COMPLETELY DENIED).
  - \_\_\_ i. For GOOD CAUSE shown and before the entry of a final judgment, the trial court may remit to the surety all or part of the amount of the bond after deducting the costs of court and any reasonable and necessary costs to the county for the return of the principal and the interest accrued on the bond amount. STATE REASONS ON SEPARATE SHEET AND ATTACH.

**VI. Requests for Remittitur After Judgment: (within 2 years After Judgment has been entered).**

- \_\_\_ A. The defendant has been rearrested within two years since the date of the judgment on the original bond forfeiture. Tex. Code Crim. Pro. art. 22.17.

FOR OTHER DEFENSES CONTACT YOUR ATTORNEY OR SEEK OTHER LEGAL ADVICE.  
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