

(II) ~~[strike]~~ STRIKE out a forfeiture of bail or collateral deducting only the actual expense incurred for the defendant's arrest, apprehension, or surrender if the defendant is produced ~~[in court]~~ and if the arrest, apprehension, or surrender occurs more than 90 days after the defendant's failure to appear or at the termination of the period allowed by the court to produce the defendant.

~~[(2)](3)~~ Evidence of incarceration of a FUGITIVE defendant ~~at the time of forfeiture~~ in any penal institution within the United States is a wholly sufficient ground to strike out a forfeiture, if ~~[return of]~~ the defendant ~~[to the jurisdiction of the court]~~ upon expiration of his ~~[sentence]~~ SENTENCE, at no expense to the State, county, or municipality is ~~[assured]~~ PRODUCED OR RETURNED TO THE JURISDICTION OF THE COURT AS A RESULT OF A DETAINER OR EXTRADITION.

~~[(3)](4)~~ If a criminal case is steted, (i) the defendant is entitled to a refund of any collateral put up by him for bail or recognizance; (ii) any other person who has furnished collateral is likewise entitled to refund; and (iii) if any bond or other security has been furnished, the bond or other security shall be discharged, unless it has been declared forfeited and 10 years have elapsed since the bond or other security was posted, in which event neither the defendant nor any other person is entitled to a refund or discharge.

~~[(4)](5)~~ Any court exercising criminal jurisdiction may not exercise a forfeiture of the bond or collateral posted by a surety and shall return the bond or collateral to the surety where:

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

(ii) The surety produces evidence, in compliance with the time constraints of ~~[paragraph (1)]~~ PARAGRAPH (2) of this subsection, that:

1. The defendant is incarcerated in a penal institution outside the State; ~~[and]~~

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

3. THE SURETY AGREES IN WRITING TO DEFRAY THE EXPENSE OF RETURNING THE DEFENDANT TO THE JURISDICTION IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

~~[(5)](6)~~ Any court exercising criminal jurisdiction that has ordered forfeiture of a bond or collateral, after expiration of the time allotted by ~~[paragraph (1)]~~ PARAGRAPH (2) of this subsection for a surety to produce a defendant, shall return the forfeited bond or collateral if the surety, within 10 years from the date the bond or collateral was posted, produces evidence that:

(i) The defendant is incarcerated in a penal institution outside the State; ~~[and]~~

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