

INSTRUCTIONS FOR  
REQUESTING SET-ASIDE OR REMISSION OF A  
BAIL FORFEITURE JUDGMENT

These instructions apply only to appearance bonds, not performance bonds.

**1. SET ASIDE**

If the court enters a judgment of forfeiture because the defendant failed to appear, the defendant or the person who posted/pledged the security may file a motion to set aside the forfeiture judgment.

**Time Limit for Filing:** This motion may only be filed within **30 days** from the date the judgment was distributed. You may **not** file a motion requesting additional time or for a "continuance." If more than 30 days have passed, your only other option is to file a motion for remission. See #2 about Remission on page 2 of these instructions.

**Form You Must Use:** You must use court form CR-366, Motion to Set-Aside Judgment of Forfeiture. Be sure to follow the instructions in the box at the top of the form.

**Reasons You Can Ask For Set-Aside:** There are only two reasons for setting aside a forfeiture judgment:

Reason 1: The defendant did not willfully fail to appear for the hearing, or

Reason 2: Justice does not require the enforcement of the judgment.

In the Affidavit section of the form, you must state the facts supporting one or both of these reasons.

**Hearing:** If you want a hearing to present evidence to support your motion, check the box requesting a hearing and explain the evidence that you will present at the hearing. The court may decide not to give you a hearing if your affidavit does not explain why the defendant's failure to appear was not willful or explain why justice requires the judgment to be set aside. It is very important that you explain your reasons in the Affidavit section of the motion.

## 2. REMISSION

The person who posted/pledged the security may file a motion for remission of a judgment of forfeiture. If remission is granted, the debt created by the judgment is forgiven and the court will give you back part or all of the forfeited bail.

**Time Limit for Filing:** This motion may only be filed within **one year** from the date of the forfeiture judgment.

**Form You Must Use:** You must use court form CR-367, Motion for Remission of Judgment of Forfeiture. Be sure to follow the instructions in the box at the top of the form.

**Reasons You Can Ask For Remission:** There are only two reasons for granting remission of a forfeiture judgment:

1. You assisted in returning the defendant to appear in the case.
2. There are extraordinary circumstances that justify remission.

In the Affidavit section of the form, you must state the facts supporting one or both of these reasons.

**Hearing:** If you want a hearing to present evidence to support your motion, check the box requesting a hearing. The court may decide not to give you a hearing if your affidavit does not explain how you assisted in returning the defendant or the extraordinary circumstances that justify remission. It is very important that you explain your reasons in the Affidavit section of the motion.

**Forfeited Bail Applied to Restitution:** Alaska Statutes require forfeited bail applied to any restitution judgment entered in a case. If this happened in your case, the court cannot return the amount of the forfeited bail that was applied to restitution.