

# Affidavit of 17.16 / Surrender Principal Warrant

Art. 17.16. DISCHARGE OF LIABILITY; SURRENDER OR INCARCERATION OF PRINCIPAL BEFORE FORFEITURE; VERIFICATION OF INCARCERATION. (a) A surety may before forfeiture relieve the surety of the surety's undertaking by:

(1) surrendering the accused into the custody of the sheriff of the county where the prosecution is pending; or

(2) delivering to the sheriff of the county in which the prosecution is pending and to the office of the prosecuting attorney an affidavit stating that the accused is incarcerated in:

(A) federal custody, subject to Subsection (a-1);

(B) the custody of any state; or

(C) any county of this state.

(a-1) For purposes of Subsection (a) (2), the surety may not be relieved of the surety's undertaking if the accused is in federal custody to determine whether the accused is lawfully present in the United States.

(b) On receipt of an affidavit described by Subsection (a) (2), the sheriff of the county in which the prosecution is pending shall verify whether the accused is incarcerated as stated in the affidavit. If the sheriff verifies the statement in the affidavit, the sheriff shall notify the magistrate before which the prosecution is pending of the verification.

(c) On a verification described by this article, the sheriff shall place a detainer against the accused with the appropriate officials in the jurisdiction in which the accused is incarcerated. On receipt of notice of a verification described by this article, the magistrate before which the prosecution is pending shall direct the clerk of the court to issue a capias for the arrest of the accused, except as provided by Subsection (d).

(d) A capias for the arrest of the accused is not required if:

(1) a warrant has been issued for the accused's arrest and remains outstanding; or

(2) the issuance of a capias would otherwise be unnecessary for the purpose of taking the accused into custody.

(e) For the purposes of Subsection (a) (2) of this article, the bond is discharged and the surety is absolved of liability on the bond on the verification of the incarceration of the accused.

(f) An affidavit described by Subsection (a) (2) and the documentation of any verification obtained under Subsection (b) must be:

(1) filed in the court record of the underlying criminal case in the court in which the prosecution is pending or, if the court record does not exist, in a general file maintained by the clerk of the court; and

(2) delivered to the office of the prosecuting attorney.

(g) A surety is liable for all reasonable and necessary expenses incurred in returning the accused into the custody of the sheriff of the county in which the prosecution is pending.

The affidavit should have 3 pages

The affidavit - filled out completely and correctly.

Approved Form

STATE OF TEXAS                    §  
                                                 §  
COUNTY

**AFFIDAVIT VERIFYING INCARCERATION OF THE ACCUSED AND SEEKING  
DISCHARGE OF LIABILITY PURSUANT TO TCCP ARTICLE 17.16(a)(2)**

*Before me the undersigned notary, on this day personally appeared \_\_\_\_\_  
(hereinafter "Affiant"), a surety/agent for surety(circle one), whose identity is known to me. After I  
administered an oath to the Affiant, upon the Affiant's oath, the Affiant said:*

1. My name is \_\_\_\_\_. I am capable of making this affidavit. The facts stated in  
this affidavit are within my personal knowledge and are true and correct.

2. The following is the information on the bond that the surety is seeking to have discharged:

DBA of bonding Company: \_\_\_\_\_  
Name of Licensee/Surety: \_\_\_\_\_  
Date of Bond: \_\_\_\_\_ Bond Amount: \_\_\_\_\_  
Bond Number: \_\_\_\_\_  
Collin County Charge: \_\_\_\_\_  
Criminal Case Number: \_\_\_\_\_

3. The following is the information on the defendant that was released on the above described bond:

Name of Defendant: \_\_\_\_\_  
Date of Birth of Defendant: \_\_\_\_\_ D.L. # \_\_\_\_\_  
Sex of Defendant: \_\_\_\_\_ Race: \_\_\_\_\_  
Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_  
Height: \_\_\_\_\_ Weight: \_\_\_\_\_

4. At the time of signing this Affidavit there is no bond forfeiture on the above described defendant  
on the above described bond.

5. The defendant is currently incarcerated at: \_\_\_\_\_  
located in \_\_\_\_\_ and the phone number for that facility is: \_\_\_\_\_

\_\_\_\_\_  
Affiant

Sworn to and subscribed before me by \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Texas

My commission expires: \_\_\_\_\_

The certificate of service – Article 17.16 (a)(2) delivering to the sheriff of the county in which the  
prosecution is pending AND **to the office of the prosecuting attorney** an affidavit stating that  
the accused is incarcerated...

**CERTIFICATE OF SERVICE**

I \_\_\_\_\_ hereby certify that a true and correct  
copy of the foregoing has this day been served on the Civil Division of the Collin County  
District Attorney's office in conformance to Article 17.16(a)(2) by using the following  
method(s):

☐ Certified Mail, Return Receipt Requested.  
☐ First Class Mail  
☐ Facsimile Transmission  
☐ Email  
☐ Hand Delivery

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Surety or Agent for Surety

Sheriff's verification:

The below paragraph verifies that the defendant is incarcerated. **If this paragraph is filled out, the warrant's division will forward the affidavit to the respective clerk's office.**

**SHERIFF'S VERIFICATION OF DEFENDANT'S INCARCERATION:**

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Collin County Sheriff's Department conducted an investigation and verified that \_\_\_\_\_  
(defendant/principal) is incarcerated at the \_\_\_\_\_  
on the charges of \_\_\_\_\_, as of \_\_\_\_\_  
a.m./p.m. on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Position:  
Collin County Sheriff's Office

The below paragraph verifies that the defendant is in federal custody to determine whether they are lawfully present in the United States. **IF this paragraph is filled out by the Sheriff's office, the affidavit will be returned to the bonding company.**

**SHERIFF'S DENIAL OF VERIFICATION-UNDER TEXAS CODE OF CRIMINAL  
PROCEDURE ARTICLE 17.16(a)(1):**

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Collin County Sheriff's Department conducted an investigation and determined that \_\_\_\_\_  
(the accused) is in federal custody to determine whether they are lawfully present in the United States.

\_\_\_\_\_  
Position:  
Collin County Sheriff's Office