

1 SB350  
2 210407-1  
3 By Senator Albritton  
4 RFD: Finance and Taxation General Fund  
5 First Read: 18-MAR-21

SYNOPSIS: Under existing law, a filing fee is assessed on each bail bond executed by a defendant.

This bill would provide for the filing fee to be assessed on each defendant, in lieu of each bail bond executed; would allow filing fees to be paid pursuant to a business check, money order, or cash; and would allow a surety to pay the bail bond posting fee simultaneously.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL  
TO BE ENTITLED  
AN ACT

To amend Section 12-19-311, Code of Alabama 1975, relating to bail bond fees; to provide for the filing fee to be assessed on each defendant, in lieu of each bail bond executed; to provide for alternative methods of payment; to

1 allow a surety to pay the bail bond posting fee  
2 simultaneously; and to make nonsubstantive, technical  
3 revisions to update the existing code language to current  
4 style.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 12-19-311 of the Code of Alabama  
7 1975, is amended to read as follows:

8 "§12-19-311.

9 "(a) (1) In addition to all other charges, costs,  
10 taxes, or fees levied by law on bail bonds, additional fees as  
11 detailed in paragraph a. and paragraph b. shall be imposed on  
12 every bail bond in all courts of this state. The fee shall not  
13 be assessed in traffic cases, except for those serious traffic  
14 offenses enumerated in Article 9, commencing with Section  
15 32-5A-190, of Chapter 5A, Title 32, Chapter 5A, Article 9.

16 Where multiple charges arise out of the same incident, the  
17 bond fee pursuant to this section shall only be assessed on  
18 one charge. For the purposes of this section, the term same  
19 incident shall be defined as the same date, location, and  
20 proximate time. Where the charge is negotiating a worthless  
21 negotiable instrument, the fee shall not be assessed more than  
22 three times annually per person charged. The fees shall be  
23 assessed as follows:

24 "a. A filing fee in the amount of thirty-five  
25 dollars (\$35) on each ~~bond-executed~~ defendant. A surety may  
26 pay the bail bond posting fee simultaneously. Filing fees may  
27 be paid using a business check, money order, or cash.

1            "b. For a misdemeanor offense, a bail bond fee in  
2 the amount of 3.5 percent of the total face value of the bail  
3 bond or one hundred dollars (\$100), whichever is greater, but  
4 not to exceed four hundred fifty dollars (\$450). For a felony  
5 offense, a bail bond fee of 3.5 percent of the total face  
6 value of the bail bond or one hundred fifty dollars (\$150),  
7 whichever is greater, but not to exceed seven hundred fifty  
8 dollars (\$750). ~~Except that if~~ If a person is released on a  
9 judicial public bail, recognizance, or signature bond,  
10 including a bond on electronic traffic and nontraffic  
11 citations, the fee shall be affixed at twenty-five dollars  
12 (\$25). For purposes of this ~~section~~ paragraph, face value of  
13 bond shall mean the bond amount set by court or other  
14 authority at release, not the amount posted at release on  
15 bail.

16            "(2) The filing fees assessed pursuant to paragraph  
17 (a) (1)a. ~~of subdivision (1) of subsection (a)~~ are required  
18 whether the release from confinement or admittance to bail is  
19 based on cash, judicial public bail, personal recognizance, a  
20 signature bond, including a bond on electronic traffic and  
21 nontraffic citations for those serious traffic offenses  
22 enumerated in Article 9, commencing with Section 32-5A-190, of  
23 Chapter 5A, Title 32, Chapter 5A, Article 9, an appearance  
24 bond, a secured appearance bond utilizing security, a bond  
25 executed by a professional surety company, or a professional  
26 bail company using professional bondsmen; provided, however  
27 that no fee shall be assessed pursuant to paragraph (a) (1)a.

1 ~~of subdivision (1) of subsection (a)~~ if a person is released  
2 on judicial public bail or on personal recognizance for a  
3 documented medical reason. The fee shall be assessed at the  
4 issuance, reissuance, or reinstatement of the bond.

5 "(b) The filing fee in paragraph (a)(1)a. ~~of~~  
6 ~~subdivision (1) of subsection (a)~~ shall be collected by either  
7 the official executing the bond or by the clerk of the court.  
8 If the fee is collected by the official executing the bond, it  
9 shall be collected at the execution of the bond or at the time  
10 of release. If the fee is collected by the clerk of the court,  
11 it shall be collected at the execution of the bond, at the  
12 time of release, or within two business days of release. The  
13 fee may be remitted via money order, electronic means, ~~U.S.~~  
14 ~~mail~~ United States Mail to the court clerk postmarked within  
15 48 hours of release, or by any other method approved by the  
16 sheriff. If the fee is collected by an official other than the  
17 clerk of the court, the official shall remit the fee to the  
18 clerk of the court, attached to the executed bond, within 30  
19 days or upon adjudication or conviction of the underlying  
20 offense, whichever occurs first; if the fee is not collected  
21 by the official, the official shall provide documentation of  
22 the nonpayment, attached to the executed bond, to the clerk of  
23 the court within two business days. The clerk of the court may  
24 accept the payment of the fee if the clerk has the executed  
25 bond, together with proof of nonpayment and charging  
26 instrument, in hand. This fee shall be paid by the bondsman,  
27 surety, guaranty, or person signing as surety for the

1 undertaking of bail. If the person is released on own  
2 recognizance, judicial public bail, or non-custodial offense  
3 pursuant to Rule 20 of the Alabama Rules of Judicial  
4 Administration, the fee shall be assessed at the time of  
5 adjudication or at the time that any other fees and costs are  
6 assessed.

7 "(c) Upon the failure to pay the filing fee in  
8 paragraph (a) (1)a. ~~of subdivision (1) of subsection (a)~~ and  
9 upon a finding of contempt in subsection (d), the bondsman,  
10 surety, guaranty, or individuals required to pay the fee shall  
11 be punished by a fine of not less than five hundred dollars  
12 (\$500) in addition to the fee imposed in paragraph (a) (1)a. ~~of~~  
13 ~~subdivision (1) of subsection (a)~~. The fine shall not be  
14 remitted, waived, or reduced unless the ~~person(s)~~ person fined  
15 can show cause to the court that he or she cannot pay the fine  
16 in the reasonably foreseeable future. In addition, upon a  
17 finding of contempt, if the responsible party is a  
18 professional surety company or a professional bail company or  
19 otherwise operating as a bondsman under Alabama law, the  
20 presiding judge may revoke the entity or individual's  
21 authority to write or issue bonds pursuant to Section  
22 15-13-159 or 15-13-160 until such time as the payment is  
23 rendered in full.

24 "(d) If the filing fee in paragraph (a) (1)a. ~~of~~  
25 ~~subdivision (1) of subsection (a)~~ is not paid in full within  
26 30 days, the clerk of the court shall provide notification of  
27 the delinquency to the district attorney or prosecuting

1 attorney on a monthly basis. Upon receipt of the certification  
2 of delinquency or failure to pay from the court, the district  
3 attorney or prosecuting attorney may take appropriate action  
4 which may include, but shall not be limited to, contempt  
5 proceedings. If contempt proceedings are initiated, the  
6 district attorney or prosecuting attorney shall send notice by  
7 ~~U.S.~~ United States Mail to the last known address of the  
8 person charged with the crime, bondsman, surety, guaranty, or  
9 person signing as surety for the undertaking of bail of the  
10 failure to pay and provide them 10 days to remit payment in  
11 full pursuant to this section. If the surety is the person  
12 charged with the crime where the fee applies, the district  
13 attorney or prosecuting attorney may file a petition for  
14 contempt, and the court shall set the contempt hearing on the  
15 person's next regularly scheduled court appearance. If the  
16 surety is not the person charged with the crime, the district  
17 attorney or prosecuting attorney may file a petition for  
18 contempt with the court, which may, after hearing, find the  
19 bondsman, surety, guaranty, or person signing as surety the  
20 undertaking of bail in contempt. The municipal court clerk  
21 shall provide a list to the prosecuting attorney and district  
22 attorney every 60 days that shall include, but not be limited  
23 to, the name of every person who has failed to pay the fee,  
24 the municipal case number, and the name of the person signing  
25 as surety for the undertaking bail. If the prosecuting  
26 authority of the municipality does not initiate contempt  
27 proceedings pursuant to this section within 30 days of

1 receiving notice from the clerk of the court, the district  
2 attorney with jurisdiction may file the contempt petition in  
3 the municipal court. If the district attorney initiates  
4 contempt proceedings in a municipal case and the person is  
5 found in contempt, the fine shall be distributed as follows:  
6 ~~50%~~ Fifty percent to the general fund of the municipality and  
7 ~~50%~~ 50 percent to the district attorney ~~Solicitor's Fund~~  
8 solicitor's fund.

9 "(e) (1) The fee imposed on bail bonds under  
10 paragraph (a) (1)b. ~~of subdivision (1) of subsection (a)~~ shall  
11 be assessed to the defendant and be imposed by the court when  
12 the defendant appears in court for adjudication or sentencing.

13 "(2) Notwithstanding ~~(e) (1)~~ subdivision (1), if the  
14 bail bond has been secured by cash, the conditions of release  
15 have been performed, and the defendant has been discharged  
16 from all obligations of the bond, or if the cash bail bond is  
17 forfeited, the clerk of the court ~~shall~~, unless otherwise  
18 ordered by the court, shall retain as the bail bond fee the  
19 amount pursuant to paragraph (a) (1)b. ~~of subdivision (1) of~~  
20 ~~subsection (a)~~ and disburse the remainder as provided by law.

21 "(3) Notwithstanding ~~(e) (1)~~ subdivision (1), if the  
22 property bail bond has been secured, the conditions of release  
23 have been performed, and the defendant has been discharged or  
24 released from all obligations of the bond, or if the property  
25 bail bond is forfeited, then the bond shall be reduced to the  
26 bail bond fee amount pursuant to paragraph (a) (1)b. ~~of~~  
27 ~~subdivision (1) of subsection (a)~~ and the property shall not



1 be discharged or released by the court until the bail bond fee  
2 pursuant to paragraph (a) (1)b. ~~of subdivision (1) of~~  
3 ~~subsection (a)~~ has been paid in full.

4 "(4) The fees shall be collected pursuant to  
5 paragraph (a) (1)b. ~~of subdivision (1) of subsection (a)~~ by the  
6 clerk of the court. The fees pursuant to this section shall  
7 not be remitted, waived, or reduced unless the defendant  
8 proves to the reasonable satisfaction of the sentencing judge  
9 that the defendant is not capable of paying the same within  
10 the reasonably foreseeable future. The fees pursuant to this  
11 section shall not be remitted, waived, or reduced unless all  
12 other costs, fees, and charges of court are remitted or  
13 waived.

14 "(5) The fees shall not reduce or affect the funds  
15 allocated to the office of the court clerk, the sheriff, the  
16 municipality, the district attorney, or the Alabama Department  
17 of Forensic Sciences under any local act or other funding  
18 mechanism under the law. These funds shall be in addition to,  
19 and not in lieu of, any funds currently available to the  
20 office of the court clerk, sheriff, municipality, the district  
21 attorney, and the Alabama Department of Forensic Sciences.

22 "(f) The court clerks shall distribute on a monthly  
23 basis as other fees are distributed, the filing fees collected  
24 pursuant to paragraph (a) (1)a. ~~of subdivision (1) of~~  
25 ~~subsection (a)~~ as follows: Ten percent from each fee shall be  
26 distributed either to the county general fund to be earmarked  
27 and distributed to the ~~Sheriff's Fund~~ sheriff's fund,

1 administered by the sheriff, in the county where the bond was  
2 executed or, where the bond is executed by the municipality,  
3 to the municipality; 45 percent of the fee to the court  
4 clerk's fund where the bond was executed or where the bond is  
5 executed by the municipal court, to the municipality; 45  
6 percent of the fee to the ~~Solicitor's Fund~~ solicitor's fund in  
7 the county where the bond was executed. The bail bond fee  
8 records shall be audited by the Department of Examiners of  
9 Public Accounts.

10 "(g) The court clerks shall distribute on a monthly  
11 basis as other fees are distributed, the fees collected  
12 pursuant to paragraph (a) (1)~~b. of subdivision (1) of~~  
13 ~~subsection (a)~~ as follows: Twenty-one dollars ~~and~~ fifty cents  
14 (\$21.50) from each fee shall be distributed to the county  
15 general fund which shall be earmarked and distributed to the  
16 ~~Sheriff's Fund~~ sheriff's fund, administered by the sheriff, in  
17 the county where the bond was executed or, where the bond was  
18 executed by a municipality, to the municipality; 40 percent of  
19 the remainder of the fee to the court clerk's fund where the  
20 bond was executed or where the bond is executed by the  
21 municipal court, to the municipality; 45 percent of the  
22 remainder of the fee to the ~~Solicitor's Fund~~ solicitor's fund  
23 in the county where the bond was executed; five percent to the  
24 State General Fund and ~~ten~~ 10 percent to the Alabama Forensic  
25 Services Trust Fund. The bail bond fee records shall be  
26 audited by the Department of Examiners of Public Accounts."

1                   Section 2. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.