

# HB476 INTRODUCED



1 HB476  
2 M9ACWHH-1  
3 By Representative Stringer  
4 RFD: Judiciary  
5 First Read: 23-Apr-24



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SYNOPSIS:

Under existing law, a person commits the crime of bail jumping in the second degree if, having been lawfully released from custody, with or without bail, upon condition that he or she will subsequently appear at a specified time and place in connection with a charge of having committed any misdemeanor or Class C felony, he or she fails to appear at that time and place.

This bill would add a Class D felony to the crime of bail jumping in the second degree.

Under existing law, the arrest and delivery of a defendant after the entry of a conditional forfeiture against the surety does not exonerate the surety unless the court finds good cause for the defendant's failure to appear.

This bill would provide that a surety is exonerated if the surety arrests and delivers the defendant following the entry of a conditional forfeiture against the surety.

Under existing law, when a defendant fails to appear in court as required by the undertaking of bail and no sufficient excuse for the failure to appear has been provided to the court, the court shall order a conditional forfeiture and show cause order against a



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29 defendant and the sureties of a bond.

30 This bill would provide that a conditional  
31 forfeiture and show cause order shall be ordered by the  
32 court within 90 days of the defendant's failure to  
33 appear.

34 Under existing law, a court shall set aside a  
35 conditional forfeiture under specific circumstances.

36 This bill would provide that a conditional  
37 forfeiture shall be set aside by a court if the surety  
38 arrests a defendant and delivers the defendant to the  
39 authorized jail and the jail refuses to accept the  
40 defendant.

41 This bill would also provide that a conditional  
42 forfeiture shall be set aside by a court if the offense  
43 is a felony and the surety shows the governing  
44 authorities declined to enter the defendant into the  
45 National Crime Information Center database with  
46 nationwide extradition or declined to proceed with  
47 extradition.

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A BILL

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TO BE ENTITLED

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AN ACT

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Relating to crimes and offenses; to amend Section

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13A-10-40, Code of Alabama 1975; to further provide for the

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crime of bail jumping in the second degree; to amend Sections



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57 15-13-118, 15-13-131, and 15-13-138, Code of Alabama 1975, as  
58 last amended by Act 2023-476, 2023 Regular Session; to further  
59 provide for the exoneration of sureties; to further provide  
60 for court orders following failure to appear; and to further  
61 provide for conditional forfeitures.

62 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

63 Section 1. Section 13A-10-40, Code of Alabama 1975, is  
64 amended to read as follows:

65 "§13A-10-40

66 (a) A person commits the crime of bail jumping in the  
67 second degree if, having been lawfully released from custody,  
68 with or without bail, upon condition that he or she will  
69 subsequently appear at a specified time and place in  
70 connection with a charge of ~~his~~ having committed any  
71 misdemeanor, Class D felony, or Class C felony, he or she  
72 fails to appear at that time and place.

73 (b) It is a defense to prosecution under this section  
74 that the defendant's failure to appear was unintentional or  
75 was unavoidable and due to circumstances beyond his or her  
76 control. The burden of injecting the defense of an  
77 unintentional failure to appear, or unavoidability and  
78 circumstances beyond his or her control, is on the defendant.

79 (c) This section does not apply to a person released  
80 from custody on condition that he or she will appear in  
81 connection with a charge of having committed a misdemeanor in  
82 violation of Title 32 ~~of this Code~~.

83 (d) Bail jumping in the second degree is a Class A  
84 misdemeanor."



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85 Section 2. Sections 15-13-118, 15-13-131, and  
86 15-13-138, Code of Alabama 1975, as last amended by Act  
87 2023-476, 2023 Regular Session, are amended to read as  
88 follows:

89 "§15-13-118

90 After the entry of a conditional forfeiture against any  
91 surety on an undertaking of bail, the surety may arrest the  
92 defendant as provided in Section 15-13-117, and the arrest and  
93 delivery of the defendant to the authorized jail as stated in  
94 Section 15-13-117 shall ~~not exonerate the surety unless, in~~  
95 ~~the judgment of the court, a good and sufficient cause is~~  
96 ~~given for the failure of the defendant to appear at the time~~  
97 ~~the conditional judgement was entered."~~

98 "§15-13-131

99 (a) When a defendant fails to appear in court as  
100 required by the undertaking of bail and no sufficient excuse  
101 has been provided to the court prior to the hearing, the court  
102 shall order a conditional forfeiture and show cause order  
103 against the defendant and the sureties of the bail within 90  
104 days of the defendant's failure to appear. The court shall  
105 notify the defendant and the sureties of the order as set out  
106 in this article. The defendant ~~or,~~ sureties, or both, shall  
107 file a written response with the clerk of the court within 30  
108 days after the date of service of the notice why the bond  
109 should not be forfeited. If a written response is filed within  
110 the time allowed and the court is of the opinion the written  
111 response is sufficient, the court shall set aside the  
112 conditional forfeiture. If the court is of the opinion the



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113 written response is not sufficient, the court shall set a  
114 hearing to determine whether the bond should be forfeited. The  
115 hearing shall not be set less than 120 days after the service  
116 of the conditional forfeiture order. If no written response  
117 has been filed after 30 days from the date of service of the  
118 notice, the court may enter an appropriate order or final  
119 judgment forfeiting all or part of the amount of the bond  
120 which shall be enforceable as any civil judgment. The court  
121 may take into consideration the circumstances provided to the  
122 court and continue any final forfeiture hearing to another day  
123 and time allowing the sureties more time to apprehend the  
124 defendant.

125 (b) When an undertaking of bail is forfeited by the  
126 failure of the defendant to appear as required, except when  
127 money is deposited as cash bail, a conditional judgment shall  
128 be rendered by the court in favor of the state or its  
129 subdivisions, for the use of the proper city, county, or  
130 state, against the parties to the undertaking for the sum  
131 thereon expressed, which judgment may be substantially as  
132 follows:

133 (State of or City of) Charge: \_\_\_\_\_ vs Case No.

134 \_\_\_\_\_ A.B. \_\_\_\_\_ C.D. \_\_\_\_\_ E.F.

135 (Sureties) \_\_\_\_\_

136 It being known to the court that A.B., together with  
137 (Sureties) \_\_\_\_\_, agreed to pay the State of Alabama (or City  
138 of \_\_\_\_\_,) \_\_\_\_\_ dollars (the sum specified in the  
139 undertaking), unless A.B. appeared at the time and place  
140 mentioned and fixed in the bond or undertaking to answer in



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141 this case and A.B. having failed to appear at the time and  
142 place mentioned in the bond or undertaking, it is therefore  
143 ordered by the court that the State of Alabama (or City of  
144 \_\_\_\_\_,) for the use of \_\_\_\_\_ State (or City), recover of the  
145 defendant and sureties on the undertakings, the sum of \_\_\_\_\_  
146 dollars (the sum specified in the undertaking), unless they  
147 file a written response and show cause why this judgment  
148 should not be made absolute within 30 days after the date of  
149 service of this conditional forfeiture order.

150 (c) The state shall remit one-half of the funds it  
151 receives under subsections (a) and (b) to the county in which  
152 the defendant was charged. The funds shall be deposited into  
153 the general fund of the county and used for the maintenance  
154 and operation of the county jail."

155 "§15-13-138

156 The court shall set aside the conditional forfeiture in  
157 its entirety for the following reasons or under the following  
158 circumstances:

159 (1) If the sureties ~~can~~ show that the defendant was  
160 hospitalized at the time he or she was to appear in court, or  
161 if the sureties can produce sufficient evidence that the  
162 defendant was not able to attend court for reason of illness,  
163 by producing a doctor's certificate or letter to that effect.  
164 The hospitalization may be in or out of this state. For the  
165 sureties to take advantage of this subdivision, they shall put  
166 the court on notice that the situation exists either prior to  
167 the issuance of the conditional forfeiture order or within 30  
168 days after legal service of the conditional forfeiture on the



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169 sureties. After receiving notice, the court may continue the  
170 case to a future date it deems proper and just for the  
171 defendant to appear. If at that time the defendant is still  
172 not able to attend court for the same reason, then it shall be  
173 the burden of the sureties to produce the evidence within the  
174 same prescribed time. This section does not bar the court from  
175 the issuance of a bench warrant for the defendant in cases  
176 where the court feels that documents of proof do not reflect  
177 the truth, or where the court has reason to believe the  
178 defendant may appear and he or she is using the documents of  
179 proof as an excuse to avoid appearance.

180 (2) If the sureties show that the defendant was  
181 confined in jail or in the custody of another jurisdiction in  
182 this state or any other state, at the time of his or her  
183 original appearance or on the date of the issuance of the  
184 conditional forfeiture order, or if the surety shows that the  
185 defendant is still confined in any jail in this state or any  
186 other state, or in the custody of another jurisdiction within  
187 this state or any other state, or in the custody of another  
188 jurisdiction within the continental United States, including  
189 United States federal jurisdiction, the court shall set aside  
190 the conditional forfeiture and continue the case until a time  
191 after the end of that confinement. If the court later learns  
192 that the defendant is free from confinement before the  
193 confinement was supposed to end, then the court, with notice  
194 to the sureties, may reset the case and the burden shall be on  
195 the sureties to produce the defendant for the hearing or the  
196 court may issue another conditional forfeiture.





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197 (3) If the sureties show the defendant is deceased.

198 (4) If the sureties show the defendant was serving on  
199 active duty in one of the military services of the United  
200 States.

201 (5) If the sureties arrest the defendant and deliver  
202 the defendant to the authorized jail and the jail refuses to  
203 accept the defendant.

204 (6) If the sureties show that the governing authorities  
205 declined to enter the defendant into the National Crime  
206 Information Center database with nationwide extradition or  
207 declined to proceed with extradition. This subdivision shall  
208 only apply to bail involving a felony. The court may include  
209 the cost of extradition as a court cost upon the disposition  
210 of the case."

211 ~~Section 2.~~Section 3. This act shall become effective on  
212 October 1, 2024.