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4 SYNOPSIS:

5 Under existing court rule, a court may continue  
6 a criminal and civil case upon a motion of a party or  
7 the court.

8 This bill would require a criminal and civil  
9 case be continued when a party, his or her leading  
10 attorney, or a witness satisfying certain criteria is  
11 absent because he or she is on active duty in the armed  
12 forces.

13 This bill would require in criminal cases that  
14 bail be set for certain defendants when the state is  
15 granted such a continuance.

16 This bill would also require the Alabama Supreme  
17 Court to amend its rules to conform with these  
18 requirements.

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21 A BILL

22 TO BE ENTITLED

23 AN ACT

24

25 Relating to criminal and civil procedure; to provide  
26 requirements for a court to continue a case when certain  
27 parties to the case are absent due to service with the  
28 National Guard or Armed Forces of the United States; to



29 provide requirements in criminal cases for bail to be set for  
30 a defendant when the state is granted such a continuance, with  
31 exceptions; and to require the Alabama Supreme Court to amend  
32 its rules accordingly.

33 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

34         Section 1. (a) (1) A court, upon motion, shall continue  
35 a criminal case when the defendant, the defendant's attorney,  
36 the victim, the victim's representative if the victim is  
37 unavailable, or the prosecutor is absent from court when the  
38 case is called for trial because he or she is on active duty  
39 as a member of the National Guard or a reserve or active  
40 component of the Armed Forces of the United States.

41         (2) The movant shall state under oath that the absence  
42 is due to service on active duty as a member of the National  
43 Guard or a reserve or active component of the Armed Forces of  
44 the United States.

45         (b) A court shall continue a criminal case upon a  
46 showing by the prosecution or the defendant that a witness is  
47 unavailable because the witness is on active duty as a member  
48 of the National Guard or as a member of a reserve or active  
49 component of the Armed Forces of the United States if all of  
50 the following are established by the movant:

51             (1) The witness is material and necessary.

52             (2) The movant has submitted a request to the proper  
53 military authority for the testimony of the witness in  
54 accordance with 5 U.S.C. § 301, and any rule or directive  
55 adopted or issued by the proper authority pursuant to that  
56 section.



(3) The provisions of Section 12-21-135.1, Code of Alabama 1975, are not satisfied.

(c) (1) Except as provided in subdivisions (2) and (3), in any case in which the prosecution is granted a continuance pursuant to subsection (a) or (b), a court shall set bail upon application by the defendant.

(2) For any case in which the defendant is accused of committing a violent offense as defined in Section 12-25-32, Code of Alabama 1975, or a sex offense as defined in Section 15-20A-5, Code of Alabama 1975, or for any case in which bail has previously been revoked or denied, the court may set bail.

(3) This subsection does not apply to a case when the defendant is charged with committing a capital offense under Section 13A-5-40, Code of Alabama 1975.

(d) This section shall apply to a criminal case to which a judge has been appointed pursuant to the Speedy Trial Act, Article 2 of Chapter 1 of Title 12, Code of Alabama 1975.

Section 2. (a) (1) A court shall grant a continuance for good cause shown when a party or his or her counsel of record in a civil case is absent from court when the case is called for trial because the party or counsel of record is on active duty as a member of the National Guard or a reserve or active component of the Armed Forces of the United States, unless the court finds, on the record, that granting the continuance would substantially prejudice another party, unduly burden the administration of justice, or that reasonable alternatives exist to protect the rights of the absent service member.

(2) The case may proceed if the party, in the absence



85 of his or her counsel of record, or the counsel of record in  
86 the absence of the party, announces ready for trial on the  
87 call of the case.

88 (b) A court shall continue a civil case upon a showing  
89 by a party that a witness is unavailable because the witness  
90 is on active duty as a member of the National Guard or as a  
91 member of a reserve or active component of the Armed Forces of  
92 the United States if all of the following are established by  
93 the movant:

94 (1) The witness is material and necessary.

95 (2) The movant has submitted a request to the proper  
96 military authority for the testimony of the witness in  
97 accordance with 5 U.S.C. § 301, and any rule or directive  
98 adopted or issued by the proper authority pursuant to that  
99 section.

100 (3) The provisions of Section 12-21-135.1, Code of  
101 Alabama 1975, are not satisfied.

102 Section 3. It is the intent of the Legislature that,  
103 pursuant to Section 150 of the Constitution of Alabama of  
104 2022, the Supreme Court of Alabama shall amend its rules to  
105 conform with this act.

106 Section 4. This act shall become effective on October  
107 1, 2026.