

HB58 INTRODUCED



1 HB58
2 3PWI9VV-1
3 By Representative Tillman
4 RFD: Judiciary
5 First Read: 13-Jan-26
6 PFD: 05-Nov-25



SYNOPSIS:

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

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

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

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

A BILL
TO BE ENTITLED
AN ACT

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



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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) (1) A court, upon or without motion, shall continue a criminal case when any party thereto or his or her leading attorney is absent from court when the case is reached because he or she 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.

(2) If the leading attorney is absent, his or her client shall make an oath that the client cannot safely go to trial without the attorney or, if a party is absent, his or her leading attorney shall state that the attorney cannot safely go to trial without the party.

(3) The case may proceed if the party, in the absence of his or her leading attorney, or the leading attorney, in the absence of the party, announces ready for trial on the call of the case.

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

(1) The witness is material and necessary.

(2) The witness is located outside of the state.



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57 (3) The movant has submitted a request to the proper
58 military authority for the testimony of the witness in
59 accordance with 5 U.S.C. § 301, and any rule or directive
60 adopted or issued by the proper authority pursuant to that
61 section.

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

66 (2) For any case in which the defendant is accused of
67 committing a violent offense as defined in Section 12-25-32,
68 Code of Alabama 1975, the court may set bail.

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

72 Section 2. (a) (1) A court, upon or without motion,
73 shall continue a civil case when any party thereto or his or
74 her leading attorney is absent from court when the case is
75 reached because he or she is on active duty as a member of the
76 National Guard or a reserve or active component of the Armed
77 Forces of the United States.

78 (2) If the leading attorney is absent, his or her
79 client shall make an oath that the client cannot safely go to
80 trial without the attorney or, if a party is absent, his or
81 her leading attorney shall state that the attorney cannot
82 safely go to trial without the party.

83 (3) The case may proceed if the party, in the absence
84 of his or her leading attorney, or the leading attorney, in



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85 the absence of the party, announces ready for trial on the
86 call of the case.

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

93 (1) The witness is material and necessary.

94 (2) The witness is located outside of the state.

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

104 Section 4. This act shall become effective on October
105 1, 2026.