

SB52 INTRODUCED



1 SB52
2 FKRY9CD-1
3 By Senator Coleman
4 RFD: Judiciary
5 First Read: 13-Jan-26
6 PFD: 12-Jan-26



4 SYNOPSIS:

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

8 This bill would require that a criminal or 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.

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



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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 any rule or directive adopted or issued by the
60 proper authority pursuant to 5 U.S.C. § 301.

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

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

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

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

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

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



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call of the case.

(b) A court shall continue a civil case upon a showing by a party 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.

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

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

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