

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Representative Mahony**

# A Bill

**HOUSE BILL**

## For An Act To Be Entitled

8 "AN ACT TO AMEND §5-54-120 TO EXPEDITE THE DISPOSITION OF  
9 MISDEMEANOR AND VIOLATION CASES WHEN THE PERSON CHARGED  
10 FAILS TO APPEAR; AND FOR OTHER PURPOSES."

## Subtitle

13 "AN ACT TO EXPEDITE THE DISPOSITION OF MISDEMEANOR AND  
14 VIOLATION CASES WHEN THE PERSON CHARGED FAILS TO APPEAR."

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18 SECTION 1. Arkansas Code Annotated §5-54-120 is amended to read as  
19 follows:

20 "§5-54-120. Failure to appear.

21 (a) A person commits the offense of failure to appear if he fails to  
22 appear without reasonable excuse subsequent to having been:

23 (1) Cited or summoned as an accused; or

24 (2) Lawfully set at liberty upon condition that he appear as  
25 ordered by a court at a specified time, place, and court.

26 (b) Failure to appear is a Class C felony if the required appearance  
27 was to answer a charge of felony or for disposition of any such charge either  
28 before or after a determination of guilt of the charge.

29 (c) (1) (A) If the required appearance was to answer a charge of  
30 misdemeanor or a violation, any person failing to appear is presumed to have  
31 waived the right to a court-appointed attorney and the right to confront  
32 witnesses and the court may proceed to take testimony, make findings of fact  
33 and if supported by the evidence, make a finding of guilt and assess a  
34 penalty.

35 (B) Failure to appear to answer a charge of misdemeanor is

1 a Class A misdemeanor.

2 (C) Failure to appear after a determination of guilt on  
3 misdemeanor charges is a Class A misdemeanor.

4 (D) Failure to appear to answer a violation is a Class C  
5 misdemeanor.

6 (E) Failure to appear after a determination of guilt of a  
7 violation is a Class C misdemeanor.

8 (2) The court shall, upon petition and good cause shown for  
9 failure to appear to answer a charge of misdemeanor or a violation, have the  
10 authority to set aside any findings, order, fines or other penalties for a  
11 period of ninety (90) days.

12 (d) This section shall not apply to an order to appear imposed as a  
13 condition of suspension or probation pursuant to §5-4-303 or an order to  
14 appear issued prior to a revocation hearing pursuant to §5-4-310."

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16 SECTION 2. All provisions of this act of a general and permanent nature  
17 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
18 Revision Commission shall incorporate the same in the Code.

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20 SECTION 3. If any provision of this act or the application thereof to  
21 any person or circumstance is held invalid, such invalidity shall not affect  
22 other provisions or applications of the act which can be given effect without  
23 the invalid provision or application, and to this end the provisions of this  
24 act are declared to be severable.

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26 SECTION 4. All laws and parts of laws in conflict with this act are  
27 hereby repealed.

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29 SECTION 5. EMERGENCY. It is hereby found and determined by the General  
30 Assembly of the State of Arkansas that being aware of the elevated case load  
31 of the municipal courts of the state, the over-crowding of local jails, the  
32 federal and state court orders limiting the number of people housed in the  
33 local jails, do hereby find that because of the over-crowding of the  
34 facilities, pretrial release of defendants is necessary to comply with state  
35 and federal orders as to over-crowding; that a great number of defendants on

1 pretrial release willfully refuse to return to court for trial that over-  
2 burden and backlog the courts causing thousands of hours of additional police,  
3 clerk and court time to dispose of the cases. Therefore, an emergency is  
4 hereby declared to exist and this act being necessary for the immediate  
5 preservation of the public peace, health, and safety, shall be in full force  
6 and effect from and after its passage and approval.

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