

Hall of the House of Representatives

93rd General Assembly - Regular Session, 2021

Amendment Form

Subtitle of House Bill No. 1618

CONCERNING THE RELEASE FROM CUSTODY OF A PERSON ON BAIL OR BY THE ISSUANCE OF A CITATION.

Amendment No. 1 to House Bill 1618

Amend House Bill No. 1618 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. DO NOT CODIFY. Legislative findings.

(a)(1) The General Assembly finds that Arkansas Constitution, Article 2, § 8, provides that "[a]ll persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great."

(2) This policy enshrines and enforces the presumption of innocence central to the American system of justice.

(b) However, the General Assembly also finds that imposition of a requirement that a person who is presumed innocent pay for his or her freedom before adjudication is in tension with this provision and has the potential for abuse.

(c) The General Assembly therefore finds that the law should address and adopt methods to reduce the likelihood of deprivation of the rights of a person presumed to be innocent.

SECTION 2. Arkansas Code § 16-81-109 is amended to read as follows:
16-81-109. Release from custody – Bail or citation.

~~(a)(1) When any sheriff or other law enforcement officer makes an arrest, he or she is authorized to take and to approve bail in the manner provided by law wherever he or she makes the arrest. For a felony offense, a judicial officer shall set cash or money bail only after he or she determines that no other conditions will reasonably ensure the appearance of the defendant in court.~~

~~(2)(A) If the offense charged is a misdemeanor, the person arrested may immediately give bail for appearing on a day to be named in the bail bond before the judge or magistrate who issued the warrant or before the court having jurisdiction to try the offense. The sheriff or other officer making the arrest may be authorized by the judge or magistrate issuing the warrant to take the bail by an endorsement made on the warrant to that effect. For a misdemeanor offense, absent compelling circumstances, the arresting~~



officer, instead of taking the person into custody, shall issue an electronic citation or prepare in duplicate a written citation to appear in court containing:

(i) The name and address of the person;
(ii) The driver's license, state identification, or passport number of the person;
(iii) The offense charged; and
(iv)(a) The time and location of the person's court date, including the court's contact information.

(b) The time specified to appear shall be at least five (5) days after the issuance of the citation.

(c) The location specified to appear shall be before a district court judge with jurisdiction within the county in which the offense charged is alleged to have been committed.

(B) If issued a written citation, the arrested person shall give his or her written promise to appear in court by signing in duplicate the written citation prepared by the arresting officer.

(C) If issued an electronic citation, the arrested person shall acknowledge receipt of the electronic citation and give his or her promise to appear in court by acceptance of the electronic citation.

(D) The original of the citation shall be retained by the officer or electronically transmitted to the district court, and a copy of the citation shall be delivered to the person arrested.

(3) Cash or money bail in any form for ordinance violations is prohibited.

(b) Cash or money bail in any form is considered only a last resort and shall be used only to assure the defendant's appearance.

~~(b)(1)(c)(1)~~ If the defendant gives bail for his or her appearance before the judge or magistrate for an examination of the charge, ~~as provided in subsection (a) of this section,~~ the county sheriff or officer taking the bail shall fix the day of the defendant's appearance.

(2) A deviation from the provisions of subdivision ~~(b)(1)(c)(1)~~ of this section shall not, however, render the bail bond invalid.

(d) As used this section, "compelling circumstances" means that:

(1) Within the previous two (2) years, the person has a documented history of willfully or intentionally failing to appear in court;

(2) The person at any time previously absconded from the jurisdiction of the court; or

(3) The person presents an imminent, identifiable threat to a specific person or persons if he or she remains out of custody."

The Amendment was read

By: Representative Richardson
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Chief Clerk