

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4
5 By: Representative Vess

A Bill

HOUSE BILL 2124

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 16-84-201
10 RELATING TO ACTIONS ON BAIL BONDS; AND FOR OTHER
11 PURPOSES."

Subtitle

14 "RELATING TO ACTIONS ON BAIL BONDS"

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

18 SECTION 1. Arkansas Code Annotated § 16-84-201 is amended to read as
19 follows:

20 "16-84-201. Action on bond.

21 (a)(1)(A) If the defendant fails to appear for trial or judgment, or at
22 any other time when his presence in court may be lawfully required, or to
23 surrender himself in execution of the judgment, the court may direct the fact
24 to be entered on the minutes, and shall promptly issue an order requiring the
25 surety to appear, on a date set by the court not less than ~~ninety (90) days~~
26 ~~nor more than~~ one hundred twenty (120) days after the issuance of the order,
27 to show cause why the sum specified in the bail bond or the money deposited in
28 lieu of bail should not be forfeited. No further action need be taken by the
29 court to forfeit the bond.

30 (B) The one hundred twenty-day period in which the surety
31 has to produce the defendant begins to run from the date notice is sent by
32 certified mail to the surety company at the address shown on the bond, whether
33 or not it is received by the surety.

34 (2) The order shall also require the officer who was responsible
35 for taking of bail to appear, unless:

36 (A) The surety is a bail bondsman; or

1 (B) The officer accepted cash in the amount of bail.

2 (b) The appropriate law enforcement agencies shall make every
3 reasonable effort to apprehend the defendant.

4 (c)(1) At the hearing, the court should determine if ~~If~~ the defendant
5 is surrendered, arrested, or good cause is shown for his failure to appear
6 before ~~judgment is entered against the surety, the court shall exonerate a~~
7 ~~reasonable amount of the surety's liability under the bail bond~~ the expiration
8 of the one hundred twenty (120) day period.

9 (2) ~~However, if~~ If the surety causes the apprehension of the
10 defendant, or the defendant is apprehended within one hundred twenty (120)
11 days from the date of ~~receipt~~ the certified mailing of written notification to
12 the surety of the defendant's failure to appear, no judgment or forfeiture of
13 bond may be entered against the surety, except as provided in subsection (e)
14 of this section.

15 (3) If good cause is shown for defendant's failure to appear,
16 other than those set forth in subsection (d) of this section, the court may
17 exonerate a reasonable amount of the surety's liability under the bail bond.

18 ~~—————(d)(4)~~ If, after one hundred twenty (120) days, the defendant has
19 not surrendered or been arrested, prior to judgment against the surety, the
20 bail bond or money deposited in lieu of bail may be forfeited.

21 (5) In determining the extent of liability of the surety on a
22 bond forfeiture, the court may take into consideration the expenses incurred
23 by the surety in attempting to locate the defendant and may allow the surety
24 credit for the expenses incurred.

25 (d)(1) No forfeiture of any appearance or bail bond shall be rendered
26 in any case where a sworn statement of a licensed court-appointed physician is
27 furnished the court showing that the principal in the bond is prevented from
28 attending by some physical or mental disability, or where a sworn affidavit of
29 the mailer, warden, or other responsible officer of a jail or penitentiary in
30 which the principal is being detained shall be furnished the court, or a sworn
31 affidavit of any officer in charge is furnished the court showing that the
32 principal in the bond is prevented from attending due to the fact that he is
33 being detained by a force claiming to act under the authority of the federal
34 government which neither the state nor the surety could control.

35 (2) The appearance or bail bond shall remain in full force and
36 effect until the principal is physically or mentally able to appear or until a

1 detainer against the principal is filed with the detaining authority.

2 (e) If, before judgment is entered against the surety, the defendant is
 3 located in another state, and the location is known, the appropriate law
 4 enforcement officers shall cause the arrest of the defendant and the surety
 5 shall be liable for the cost of returning the defendant to the court in an
 6 amount not to exceed the face value of the bail bond.

7 ~~—— (f) In determining the extent of liability of the surety on a bond
 8 forfeiture, the court may take into consideration the expenses incurred by the
 9 surety in attempting to locate the defendant and may allow the surety credit
 10 for the expenses incurred."~~

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12 SECTION 2. Arkansas Code Annotated § 16-84-203 is repealed.

13 ~~—— 16-84-203. Certain absences excused.~~

14 ~~—— (a) No forfeiture of any appearance or bail bond shall be rendered in
 15 any case where a sworn statement of a licensed court-appointed physician is
 16 furnished the court showing that the principal in the bond is prevented from
 17 attending by some physical or mental disability, or where a sworn affidavit of
 18 the jailer, warden, or other responsible officer of a jail or penitentiary in
 19 which the principal is being detained shall be furnished the court, or a sworn
 20 affidavit of any officer in charge is furnished the court showing that the
 21 principal in the bond is prevented from attending due to the fact that he is
 22 being detained by a force claiming to act under the authority of the federal
 23 government which neither the state nor the surety could control.~~

24 ~~—— (b) The appearance or bail bond shall remain in full force and effect
 25 until the principal is physically or mentally able to appear or until a
 26 detainer against the principal is filed with the detaining authority.~~

27

28 SECTION 3. All provisions of this act of a general and permanent nature
 29 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 30 Revision Commission shall incorporate the same in the Code.

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32 SECTION 4. If any provision of this act or the application thereof to
 33 any person or circumstance is held invalid, such invalidity shall not affect
 34 other provisions or applications of the act which can be given effect without
 35 the invalid provision or application, and to this end the provisions of this
 36 act are declared to be severable.

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SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.