

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 1459

4
5 By: Representative Verkamp

For An Act To Be Entitled

9 AN ACT CONCERNING THE ENFORCEMENT OF BAIL BONDS;
10 AND FOR OTHER PURPOSES.

Subtitle

11
12 AN ACT CONCERNING THE ENFORCEMENT OF
13 BAIL BONDS.
14

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

17
18 SECTION 1. Action on bail bond.

19 (a) If a bail bond is granted by a judicial officer, it shall be
20 conditioned on the defendant appearing for trial, surrendering in execution
21 of the judgment, or appearing at any other time when his or her presence in
22 court may be lawfully required under Arkansas Rules of Criminal Procedure,
23 Rules 9.5 and 9.6, or any other rule.

24 (b)(1) If the defendant fails to appear at any time when the
25 defendant's presence is required under subsection (a) of this section, the
26 court shall enter this fact by written order or docket entry, adjudge the
27 bail bond of the defendant, or the money deposited in lieu thereof, to be
28 forfeited, and issue a warrant for the arrest of the defendant.

29 (2) The clerk shall:

30 (A) Notify the sheriff and each surety on the bail bond
31 that the defendant should be surrendered to the sheriff as required by the
32 terms of the bail bond; and

33 (B) Immediately issue a summons on each surety on the bail
34 bond requiring the surety to personally appear on the date and time stated in
35 the summons to show cause why judgment should not be rendered for the sum
36 specified in the bail bond on account of the forfeiture.



1 (c)(1) If, prior to the date of the show cause hearing ordered in
 2 subsection (b) of this section, the defendant surrenders, is arrested, or
 3 good cause is shown for the defendant's failure to appear, the court may
 4 exonerate the amount of the surety's liability under the bail bond as the
 5 court determines in its discretion, and, if the surety does not object, enter
 6 judgment accordingly against the surety.

7 (2) In determining the extent of liability of the surety on the
 8 bond, the court may take into consideration the actions taken and the
 9 expenses incurred by the surety to locate the defendant, the expenses
 10 incurred by law enforcement officers to locate and return the defendant, and
 11 any other factors the court finds relevant.

12 (d)(1) If the surety does not consent to the entry of judgment in the
 13 amount determined under subsection (c) of this section, or if the defendant
 14 has not surrendered or been brought into custody, then at the time of the
 15 show cause hearing, unless continued to a subsequent time, the court shall
 16 determine the surety's liability and enter judgment on the forfeited bond.

17 (2) The court may exercise its discretion in determining the
 18 amount of the judgment and may consider the factors listed in subsection (c)
 19 of this section.

20 (e)(1) No pleading on the part of the state shall be required in order
 21 to enforce a bond under this section.

22 (2) The summons required under subsection (b) of this section
 23 shall be made returnable and shall be executed as in civil actions, and the
 24 action shall be docketed and shall proceed as an ordinary civil action.

25 (3) The summons may be directed to and served on an agent of the
 26 surety, and the surety's appearance pursuant to the summons shall be in
 27 person and not by filing an answer or other pleading.

28 (f) Notwithstanding any law to the contrary, a circuit court may
 29 suspend a bail bond company's or agent's ability to issue bail bonds in its
 30 court if the bail bond company or agent fails to comply with an order of the
 31 court, or fails to pay forfeited bonds in accordance with a court's order.

32
 33 SECTION 2. Arkansas Code § 16-84-201 is repealed.

34 ~~16-84-201. Action on bond.~~

35 ~~(a)(1)(A) If the defendant fails to appear for trial or judgment, or~~
 36 ~~at any other time when his presence in court may be lawfully required, or to~~

1 ~~surrender himself in execution of the judgment, the court may direct the fact~~
 2 ~~to be entered on the minutes, and shall promptly issue an order requiring the~~
 3 ~~surety to appear, on a date set by the court not more than one hundred twenty~~
 4 ~~(120) days after the issuance of the order, to show cause why the sum~~
 5 ~~specified in the bail bond or the money deposited in lieu of bail should not~~
 6 ~~be forfeited.~~

7 ~~(B) The one hundred twenty day period in which the~~
 8 ~~defendant must be surrendered or apprehended pursuant to subdivision (c)(2)~~
 9 ~~of this section begins to run from the date notice is sent by certified mail~~
 10 ~~to the surety company at the address shown on the bond, whether or not it is~~
 11 ~~received by the surety.~~

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

14 ~~(A) The surety is a bail bondsman; or~~

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

16 ~~(b) The appropriate law enforcement agencies shall make every~~
 17 ~~reasonable effort to apprehend the defendant.~~

18 ~~(c)(1) If the defendant is surrendered or arrested, or good cause is~~
 19 ~~shown for his failure to appear before judgment is entered against the~~
 20 ~~surety, the court shall exonerate a reasonable amount of the surety's~~
 21 ~~liability under the bail bond.~~

22 ~~(2) However, if the surety causes the apprehension of the~~
 23 ~~defendant or the defendant is apprehended within one hundred twenty (120)~~
 24 ~~days from the date of receipt of written notification to the surety of the~~
 25 ~~defendant's failure to appear, no judgment or forfeiture of bond may be~~
 26 ~~entered against the surety, except as provided in subsection (e) of this~~
 27 ~~section.~~

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

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

36 ~~(f) In determining the extent of liability of the surety on a bond~~

1 ~~forfeiture, the court may take into consideration the expenses incurred by~~
2 ~~the surety in attempting to locate the defendant and may allow the surety~~
3 ~~credit for the expenses incurred.~~

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