

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
4

As Engrossed: H3/12/03

A Bill

HOUSE BILL 1459

5 By: Representative Verkamp
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For An Act To Be Entitled

9 AN ACT CONCERNING THE ENFORCEMENT OF BAIL BONDS;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12 AN ACT CONCERNING THE ENFORCEMENT OF
13 BAIL BONDS.
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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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18 *SECTION 1. Action on bail bond in circuit courts.*

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 *circuit court may be lawfully required under Arkansas Rules of Criminal*
23 *Procedure, 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 *circuit court shall enter this fact by written order or docket entry, adjudge*
27 *the 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)(A) If the defendant is apprehended and brought before the
2 circuit court within seventy-five (75) days of the date notification is sent
3 under subdivision (b)(2)(A) of this section, then no judgment of forfeiture
4 may be entered against the surety.

5 (B) The surety shall be liable for the cost of returning
6 the defendant to the circuit court in an amount not to exceed the face amount
7 of the bond.

8 (2)(a) If the defendant is apprehended and brought before the
9 circuit court after the seventy-five (75) day period under subsection (c)(1)
10 of this section, the circuit court may exonerate the amount of the surety's
11 liability under the bail bond as the circuit court determines in its
12 discretion, and, if the surety does not object, enter judgment accordingly
13 against the surety.

14 (b) In determining the extent of liability of the surety
15 on the bond, the circuit court may take into consideration the actions taken
16 and the expenses incurred by the surety to locate the defendant, the expenses
17 incurred by law enforcement officers to locate and return the defendant, and
18 any other factors the circuit court finds relevant.

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

25 (2) The circuit court may exercise its discretion in determining
26 the amount of the judgment and may consider the factors listed in subsection
27 (c) of this section.

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

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

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

36 (f) Notwithstanding any law to the contrary, a circuit court may

1 suspend a bail bond company's or agent's ability to issue bail bonds in its
2 court if the bail bond company or agent fails to comply with an order of the
3 circuit court, or fails to pay forfeited bonds in accordance with a circuit
4 court's order.

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6 SECTION 2. Arkansas Code § 16-84-201 is amended to read as follows:

7 16-84-201. Action on bond in district courts.

8 (a)(1)(A) If the defendant fails to appear for trial or judgment, or
9 at any other time when his presence in district court may be lawfully
10 required, or to surrender himself in execution of the judgment, the district
11 court may direct the fact to be entered on the minutes, and shall promptly
12 issue an order requiring the surety to appear, on a date set by the district
13 court not more than one hundred twenty (120) days after the issuance of the
14 order, to show cause why the sum specified in the bail bond or the money
15 deposited in lieu of bail should not be forfeited.

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

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

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

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

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

27 (c)(1) If the defendant is surrendered or arrested, or good cause is
28 shown for his failure to appear before judgment is entered against the
29 surety, the district court shall exonerate a reasonable amount of the
30 surety's liability under the bail bond.

31 (2) However, if the surety causes the apprehension of the
32 defendant or the defendant is apprehended within one hundred twenty (120)
33 days from the date of receipt of written notification to the surety of the
34 defendant's failure to appear, no judgment or forfeiture of bond may be
35 entered against the surety, except as provided in subsection (e) of this
36 section.

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

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

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

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/s/ Verkamp