

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

SENATE BILL 307

4
5 By: Senators S. Flowers, Burnett, L. Chesterfield, Crumbly, J. Dismang, Elliott, S. Harrelson, J.
6 Hutchinson, D. Johnson, Madison, P. Malone, D. Wyatt
7 By: Representatives H. Wilkins, J. Edwards, Hall, Patterson, B. Wilkins, Wright

For An Act To Be Entitled

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10 AN ACT TO AMEND THE PENALTIES FOR FAILURE TO APPEAR;
11 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

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15 TO AMEND THE PENALTIES FOR FAILURE TO
16 APPEAR AND TO DECLARE AN EMERGENCY.

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

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

22 5-54-120. Failure to appear.

23 (a) A person commits the offense of failure to appear if he or she
24 fails to appear without reasonable excuse subsequent to having been:

25 (1) Cited or summonsed as an accused; or

26 (2) Lawfully set at liberty upon condition that he or she appear
27 at a specified time, place, and court.

28 (b) Failure to appear is a Class C felony ~~if the required appearance~~
29 ~~was to answer a charge of felony or for disposition of any felony charge~~
30 ~~either before or after a determination of guilt of the felony charge~~ if the
31 required appearance was in regard to a pending charge or disposition of a
32 felony charge either before or after a determination of guilt of the charge.

33 ~~(c)(1) Failure to appear is a Class A misdemeanor if the required~~
34 ~~appearance was to answer a charge of misdemeanor or for disposition of any~~
35 ~~misdemeanor charge either before or after a determination of guilt of the~~
36 ~~misdemeanor charge.~~



1 ~~(2) Failure to appear is a Class C misdemeanor if the required~~
2 ~~appearance was to answer a violation.~~

3 (c) Failure to appear is a:

4 (1) Class A misdemeanor if the required appearance was in regard
5 to a pending charge or disposition of a Class A misdemeanor charge either
6 before or after a determination of guilt of the charge;

7 (2) Class B misdemeanor if the required appearance was in regard
8 to a pending charge or disposition of a Class B misdemeanor charge either
9 before or after a determination of guilt of the charge;

10 (3) Class C misdemeanor if the required appearance was in regard
11 to a pending charge or disposition of a Class C misdemeanor charge either
12 before or after a determination of guilt of the charge;

13 (4) Class D misdemeanor if the required appearance was in regard
14 to a pending charge or disposition of a Class D misdemeanor charge either
15 before or after a determination of guilt of the charge;

16 (5) An unclassified misdemeanor with the same penalty as the
17 unclassified misdemeanor in the pending charge or disposition if the required
18 appearance was in regard to a pending charge or disposition of an
19 unclassified misdemeanor either before or after a determination of guilt on
20 the charge; and

21 (6) Violation if the required appearance was in regard to a
22 pending charge or disposition of a violation either before or after a
23 determination of guilt of the charge.

24 (d) This section does not apply to an order to appear imposed as a
25 condition of suspension or probation ~~pursuant to~~ under § 5-4-303 or an order
26 to appear issued ~~prior to~~ before a revocation hearing ~~pursuant to~~ under § 5-
27 4-310.

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29 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
30 General Assembly of the State of Arkansas that persons who fail to appear in
31 court for minor misdemeanor infractions and violations are being charged with
32 the more serious crime of failure to appear; that failure to appear for a
33 misdemeanor charge or violation is a Class A misdemeanor, which sometimes has
34 the effect of affecting a person's criminal history background check; and
35 that this act is immediately necessary because the inequality of being
36 subjected to a Class A misdemeanor charge for failing to appear for a lesser

1 charge is unjust. Therefore, an emergency is declared to exist and this act
2 being immediately necessary for the preservation of the public peace, health,
3 and safety shall become effective on:

4 (1) The date of its approval by the Governor;

5 (2) If the bill is neither approved nor vetoed by the Governor,
6 the expiration of the period of time during which the Governor may veto the
7 bill; or

8 (3) If the bill is vetoed by the Governor and the veto is
9 overridden, the date the last house overrides the veto.

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