

16-84-114. Surrender of defendant.

(a)(1) **At any time** before the forfeiture of their bond, the surety may surrender the defendant or the defendant may surrender himself or herself to the **jailer of the county in which the offense was committed**.

(2) However, the surrender must be accompanied by a **certified copy of the bail bond** to be delivered to the jailer, who must detain the defendant in custody thereon as upon a commitment and give a written acknowledgment of the surrender.

(3) **The surety shall thereupon be exonerated.**

(b)(1) For the purpose of surrendering the defendant, the surety may obtain from the officer having in his or her custody the bail bond or recognizance a certified copy thereof, and thereupon at any place in the state may arrest the defendant.

(2) No person other than an **Arkansas-licensed bail bond agent**, an **Arkansas-licensed private investigator**, a **certified law enforcement officer**, or a **person** acting under the **direct supervision** of an **Arkansas-licensed bail bond agent** shall be authorized to apprehend, detain, or arrest a defendant on a bail bond, wherever issued, unless that person is licensed as a bail bond agent by the state where the bail bond was written.

(3) No person shall represent himself or herself to be a bail enforcement agent, bounty hunter, or similar title in this state.

(You shall always be noted as a "**Professional bail bondsman**")

(4) Any bail bond agent attempting to apprehend a defendant shall **notify the local law enforcement** agency or agencies of his or her presence and provide the local law enforcement agency or agencies with the **defendant's name, charges, and suspected location**.

(5) Any person who violates any provision of this section shall be guilty of a **Class D. Felony**

(c) The **surety** may arrest the defendant **without the certified copy**.

(However, the surrender **must** be accompanied by a **certified copy of the bail bond** to be delivered to the jailer)

(d) If the surety has **good cause** for surrendering the defendant and has complied with the provisions of this section in surrendering the defendant, there shall be **no requirement** that the surety return part or all of the **premium** paid for the bail bond.

SECTION 24. REFUND OF PREMIUM

The principal shall be entitled to a refund of his premium when the arrestee is surrendered by his bail bondsman at any time prior to the final termination of the liability of the bond provided that the arrestee has not committed any of the following:

- A. **Left the jurisdiction** of the court without written consent of the court for a period in excess of twenty-four (24) hours;
- B. **Moved from his place of residence** without notifying his bail bondsman;
- C. Was **arrested for an offense** other than a traffic violation;
- D. **Violated any substantive provision in the bail bond contract.**

The principal shall be entitled to a refund of his premium when the bail bondsman fails to secure the defendant's **release from actual custody.**

SECTION 39. APPREHENSION OF DEFENDANTS

- A. No person shall represent himself/herself to be a bail enforcement agent, bounty hunter or similar title.
- B. No professional bail bond company/bondsman shall permit or authorize any person to apprehend a defendant on bail unless that person is qualified pursuant to Ark. Code Ann. §16-84-114 and is:
 - 1. A bail bond agent licensed by the state where the bond was written;
 - 2. A private investigator licensed in Arkansas; or
 - 3. A certified law enforcement officer; or
 - 4. A person who is acting under the direct supervision of an Arkansas licensed bail bondsman and who is at least twenty-one (21) years of age with no prior felony convictions or convictions for any offense involving moral turpitude or violence.

C. Any bail bond company/bail bondsman permitting or authorizing a person other than the surety to apprehend or surrender a defendant pursuant to A.C.A. §16-84-114(3)(b) must provide the agent with:

1. Written authorization on company letterhead using the form approved by the Board and contained in Appendix "I" of this rule; and

2. A certified copy of the bail bond or recognizance appropriately endorsed as provided in Ark. Code Ann. §16-84-114.

D. Any bail bondsman or agent authorized pursuant to Ark. Code Ann. §16-84-114 attempting to apprehend a defendant must notify the local law enforcement agency or agencies of his presence and provide them with the defendant's name, charges and suspected location

E. The bondsman or agent shall record the date and time of notification and the identity of the law enforcement agency official to whom notification was given.

F. Notification must be given prior to any apprehension attempt, to a law enforcement official on duty, at least once every forty-eight (48) hours during the apprehension attempt or as required by policies of the law enforcement agency to which notice is given.

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

(a)(I)(A) If the defendant **fails to appear** for trial or judgment, or at any other time when his or her presence in district court may be lawfully required, or to surrender himself or herself in execution of the judgment, the district court may direct the fact to be entered on the **minutes** and shall **promptly** issue an order requiring the surety to appear, on a date set by the district court not more than **one hundred twenty (120) days** from the **date notice is sent by certified mail** to the **surety company at the address shown on the bond**, whether or not it is received by the surety, to show cause why the sum specified in the bail bond or the money deposited in lieu of bail should not be forfeited.

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

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

(A) The surety is a bail bondsman; or

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

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

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

(2) However, if the surety causes the apprehension of the defendant or the defendant is apprehended within one hundred twenty (120) days from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety, a judgment or forfeiture of bond may not be entered against the surety, except as provided in subsection (e) of this section.

(d) If **after one hundred twenty (120) days** from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety, the **defendant** has not **surrendered** or been **arrested**, the **bail bond** or money deposited in lieu of bail may be **forfeited** without further notice or hearing.

(e) If the defendant is located in **another state** and the location is known **within one hundred twenty (120) days** from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety, the appropriate **law enforcement officers shall cause the arrest of the defendant and the surety shall be liable for the cost of returning the defendant to the district court in an amount not to exceed the face value of the bail bond.**

(f)(1) In determining the extent of liability of the surety on a bond forfeiture, the court, without further notice or hearing, may take into consideration the **expenses incurred by the surety** in attempting to locate the defendant and may allow the surety credit for the expenses incurred.

(2) To be considered by the court, information concerning expenses incurred in attempting to locate the defendant should be submitted to the court by the surety no later than the one-hundred-twentieth day from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety

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

16-84-207. Action on bail bond in circuit courts.

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

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

(2) The circuit clerk shall:

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

(There is mention of the **means of notification** as in the District's Court requirement of certified mail, notification could even be given orally or by any means. Best to view the time as the date of nonappearance)

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

(c)(1)(A) If the defendant is apprehended and brought before the circuit court within **seventy-five (75) days** of the **date notification** is sent under subdivision (b)(2)(A) of this section, then no judgment of forfeiture may be entered against the surety.

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

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

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

The appropriate **law enforcement** agencies shall make every **reasonable effort to apprehend the defendant.**

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

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

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

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

(3) The summons shall be directed to and served on the surety in the manner provided in Rule 4 of the Arkansas Rules of Civil Procedure, and the surety's appearance pursuant to the summons shall be in person and not by filing an answer or other pleading.

(f) Notwithstanding any law to the contrary, a circuit court may **suspend** a bail bond company's or agent's ability to issue bail bonds in its court if the

bail bond company or agent fails to comply with an **order** of the circuit court or **fails to pay forfeited bonds** in accordance with a circuit court's order.

16-84-203. Certain absences excused.

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

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

5-54-120. Failure to appear.

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

(1) Cited or summonsed as an accused; or

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

Failure to appear is a Class C felony if the required appearance was to answer a charge of felony or for disposition of any felony charge either before or after a determination of guilt of the felony charge.

Failure to appear is a Class A misdemeanor if the required appearance was to answer a charge of misdemeanor or for disposition of any misdemeanor charge either before or after a determination of guilt of the misdemeanor charge.

Failure to appear is a Class C misdemeanor if the required appearance

was to answer a violation.

This section does not apply to an order to appear imposed as a condition of suspension or probation pursuant to § 5-4-303 or an order to appear issued prior to a revocation hearing pursuant to § 5-4-31

SECTION 26. FORFEITURES; MISREPRESENTATIONS

No bail bondsman shall purposely make any **misleading or untrue** representations to any court or to any public official for the purpose of avoiding or preventing a forfeiture of bail or setting aside a forfeiture that has already occurred.

16-90-105. Verdict of guilty.

(a) Upon the return of a verdict of guilty, if tried by a jury, or the finding of guilt if tried by the circuit court without a jury, **sentence may be announced.**

(b) The judgment of the court may be then and there entered for sentencing and the entry of the judgment may be postponed to a date certain then fixed by the court not more than **thirty (30) days thereafter**, at which time probation reports may be submitted, matters of mitigation presented, or any other matter heard that the court or the defendant might deem appropriate to consider before the pronouncement of sentence and entry of the formal judgment.

(c) If the defendant is ordered to be held without bond or for any reason whatever, the defendant may file a written demand for immediate sentencing, whereupon the trial judge shall cause formal sentence and judgment to be made of record.

(d) At the time sentence is announced and judgment entered, the trial judge must advise the defendant of his or her right to appeal and either fix or deny bond.

(e)) In its **discretion**, the trial judge may order:

The defendant released from custody on his or her **own**
recognizance;

Another bond fixed;

The defendant to **remain subject to the provisions of his or her bond** if the defendant appeared at trial on bail bond; or

(The bail bond contract provides that “if convicted shall render himself in execution thereof”. Sentencing may not yet have been announced and may be postponed up to 30 days).

The defendant to the **custody of the sheriff** to be held without bond