

1 SB361
2 150632-1
3 By Senators Holley and Smith
4 RFD: Governmental Affairs
5 First Read: 14-MAR-13

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8 SYNOPSIS: Under existing law, a bail bond fee is
9 imposed on every bail bond, except certain minor
10 traffic cases, in all courts of the state.

11 Under existing law, where multiple charges
12 arise out of the same incident, the bail bond fee
13 is assessed on only one charge.

14 This bill would define multiple charges
15 arising out of the same incident to be acts that
16 took place on the same date and at the same
17 location and proximate time.

18 This bill would provide that the person
19 executing a bond or the clerk of the court has 30
20 days from execution of the bond to collect the bail
21 bond fee.

22 Under existing law, the fee must be
23 collected within two business days by the official
24 executing the bond.

25 Under existing law, the municipal judge may
26 fine a person up to \$50 for contempt of court in
27 any case before the court.

1 This bill would authorize the municipal
2 court to assess a contempt fine of up to \$500
3 against a person who fails to pay the bail bond
4 fee.

5 Under existing law, the act assessing the
6 bail bond fee expires on September 30, 2015.

7 This bill would repeal the expiration date
8 of the bail bond fee.

9
10 A BILL

11 TO BE ENTITLED

12 AN ACT

13
14 Relating to bail bond fees; to amend Section 2 of
15 Act 2012-535, now appearing as Section 12-14-31 and Section
16 12-19-311 Code of Alabama 1975; to provide further for what
17 acts constitute the same incident in cases where there are
18 multiple charges; to extend the time in which the official
19 executing the bond or the clerk of the court has to collect
20 the bail bond fee; to authorize an additional contempt penalty
21 in the municipal court for failure to pay the bail bond fee;
22 and to repeal the expiration date of the bail bond fee.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 2 of Act 2012-535, now appearing
25 as Section 12-14-31 and Section 12-19-311, of the Code of
26 Alabama 1975, are amended to read as follows:

27 "§12-14-31.

1 "(a) A municipal judge may administer oaths, compel
2 the attendance of witnesses and compel the production of books
3 and papers, punish by fine not exceeding \$50.00 and/or
4 imprisonment not exceeding five days any person found and
5 adjudged to be in contempt of court and shall have power
6 coextensive with the jurisdiction of the district court to
7 issue writs and other process and to approve and declare bonds
8 forfeited. In contempt of court cases brought pursuant to
9 Section 12-19-311(c) and (d), a municipal judge may punish by
10 a fine not exceeding five hundred dollars (\$500).

11 "(b) The municipal judge or, when there is more than
12 one judge in the municipality, the presiding judge shall
13 designate any other municipal officers who shall be authorized
14 to approve appearance and appeal bonds.

15 "§12-19-311.

16 "(a) (1) In addition to all other charges, costs,
17 taxes, or fees levied by law on bail bonds, additional fees as
18 detailed in paragraph a. and paragraph b. shall be imposed on
19 every bail bond in all courts of this state.

20 "The fee shall not be assessed in traffic cases,
21 except for those serious traffic offenses enumerated in Title
22 32, Chapter 5A, Article 9. Where multiple charges arise out of
23 the same incident, the bond fee pursuant to this section shall
24 only be assessed on one charge. For the purposes of this
25 section, the term "same incident" shall be defined as the same
26 date, location, and proximate time. Where the charge is
27 negotiating a worthless negotiable instrument, the fee shall

1 not be assessed more than three times annually per person
2 charged. The fees shall be assessed as follows:

3 "a. A filing fee in the amount of thirty-five
4 dollars (\$35) on each bond executed.

5 "b. For a misdemeanor offense, a bail bond fee in
6 the amount of 3.5 percent of the total face value of the bail
7 bond or one hundred dollars (\$100), whichever is greater, but
8 not to exceed four hundred fifty dollars (\$450). For a felony
9 offense, a bail bond fee of 3.5 percent of the total face
10 value of the bail bond or one hundred fifty dollars (\$150),
11 whichever is greater, but not to exceed seven hundred fifty
12 dollars (\$750). Except that if a person is released on a
13 judicial public bail, recognizance, or signature bond,
14 including a bond on electronic traffic and nontraffic
15 citations, the fee shall be affixed at twenty-five dollars
16 (\$25). For purposes of this section, face value of bond shall
17 mean the bond amount set by court or other authority at
18 release, not the amount posted at release on bail.

19 "(2) The fees assessed pursuant to paragraph a. of
20 subdivision (1) of subsection (a) are required whether the
21 release from confinement or admittance to bail is based on
22 cash, judicial public bail, personal recognizance, a signature
23 bond, including a bond on electronic traffic and nontraffic
24 citations for those serious traffic offenses enumerated in
25 Title 32, Chapter 5A, Article 9, an appearance bond, a secured
26 appearance bond utilizing security, a bond executed by a
27 professional surety company, or a professional bail company

1 using professional bondsmen; provided, however that no fee
2 shall be assessed pursuant to paragraph a. of subdivision (1)
3 of subsection (a) if a person is released on judicial public
4 bail or on personal recognizance for a documented medical
5 reason. The fee shall be assessed at the issuance, reissuance,
6 or reinstatement of the bond.

7 "(b) The fee in paragraph a. of subdivision (1) of
8 subsection (a) shall be collected by either the official
9 executing the bond or by the clerk of the court. If the fee is
10 collected by the official executing the bond, it shall be
11 collected at the execution of the bond or at the time of
12 release. If the fee is collected by the clerk of the court, it
13 shall be collected at the execution of the bond, at the time
14 of release, or within two business days of release. The fee
15 may be remitted via money order, electronic means, U.S. mail
16 to the court clerk postmarked within 48 hours of release, or
17 by any other method approved by the sheriff. If the fee is
18 collected by an official other than the clerk of the court,
19 the official shall remit the fee to the clerk of the court,
20 attached to the executed bond, within 30 days or upon
21 adjudication or conviction of the underlying offense,
22 whichever occurs first; if the fee is not collected by the
23 official, the official shall provide documentation of the
24 nonpayment, attached to the executed bond, to the clerk of the
25 court within two business days. The clerk of the court may
26 accept the payment of the fee if the clerk has the executed
27 bond, together with proof of nonpayment and charging

1 instrument, in hand. This fee shall be paid by the bondsman,
2 surety, guaranty, or person signing as surety for the
3 undertaking of bail. If the person is released on own
4 recognizance, judicial public bail, or non-custodial offense
5 pursuant to Rule 20 of the Alabama Rules of Judicial
6 Administration, the fee shall be assessed at the time of
7 adjudication or at the time that any other fees and costs are
8 assessed.

9 "(c) Upon the failure to pay the fee in paragraph a.
10 of subdivision (1) of subsection (a) by the specified time as
11 set forth in this section, if the responsible party is a
12 professional surety company or a professional bail company or
13 otherwise operating as a bondsman under Alabama law, then the
14 entity or individual's authority to write or issue bonds
15 pursuant to Section 15-13-159 or 15-13-160 shall be suspended
16 immediately in all counties where operating as a surety until
17 such time as a contempt proceeding can be conducted or payment
18 is rendered in full. If and upon a finding of contempt in
19 subsection (d), the bondsman, surety, guaranty, or individuals
20 required to pay the fee shall be punished by a fine of not
21 less than five hundred dollars (\$500) in addition to the fee
22 imposed in paragraph a. of subdivision (1) of subsection (a).
23 The fine shall not be remitted, waived, or reduced unless the
24 person(s) fined can show cause to the court that he or she
25 cannot pay the fine in the reasonably foreseeable future.

26 "(d) If the fee in paragraph a. of subdivision (1)
27 of subsection (a) is not paid in full within 30 days, the

1 clerk of the court shall provide notification of the
2 delinquency to the district attorney or prosecuting attorney
3 ~~within two days of the clerk's entry of the case or if the~~
4 ~~case is pending then within two days of the receipt of the~~
5 ~~executed bond~~ on a monthly basis. Upon receipt of the
6 certification of delinquency or failure to pay from the court,
7 the district attorney or prosecuting attorney may take
8 appropriate action which may include, but shall not be limited
9 to, contempt proceedings. If contempt proceedings are
10 initiated the district attorney or prosecuting attorney shall
11 send notice by U.S. Mail to the last known address of the
12 person charged with the crime, bondsman, surety, guaranty, or
13 person signing as surety for the undertaking of bail of the
14 failure to pay and provide them 10 days to remit payment in
15 full pursuant to this section. If the surety is the person
16 charged with the crime where the fee applies, the district
17 attorney or prosecuting attorney may file a petition for
18 contempt and the court shall set the contempt hearing on the
19 person's next regularly scheduled court appearance. If the
20 surety is not the person charged with the crime the district
21 attorney or prosecuting attorney may file a petition for
22 contempt with the court, which may, after hearing, find the
23 bondsman, surety, guaranty or person signing as surety the
24 undertaking of bail in contempt. The municipal court clerk
25 shall provide a list to the prosecuting attorney and district
26 attorney every 60 days that shall include, but not be limited
27 to, the name of every person who has failed to pay the fee,

1 the municipal case number, and the name of the person signing
2 as surety for the undertaking bail. If the prosecuting
3 authority of the municipality does not initiate contempt
4 proceedings pursuant to this section within 30 days of
5 receiving notice from the clerk of the court, the district
6 attorney with jurisdiction may file the contempt petition in
7 the municipal court. If the district attorney initiates
8 contempt proceedings in a municipal case and the person is
9 found in contempt, the fine shall be distributed as follows:
10 50% to the general fund of the municipality and 50% to the
11 district attorney Solicitor's Fund.

12 "(e) (1) The fee imposed on bail bonds under
13 paragraph b. of subdivision (1) of subsection (a) shall be
14 assessed to the defendant and be imposed by the court when the
15 defendant appears in court for adjudication or sentencing.

16 "(2) Notwithstanding (e) (1), if the bail bond has
17 been secured by cash, the conditions of release have been
18 performed, and the defendant has been discharged from all
19 obligations of the bond, or if the cash bail bond is forfeited
20 the clerk of the court shall, unless otherwise ordered by the
21 court, retain as the bail bond fee the amount pursuant to
22 paragraph b. of subdivision (1) of subsection (a) and disburse
23 the remainder as provided by law.

24 "(3) Notwithstanding (e) (1), if the property bail
25 bond has been secured, the conditions of release have been
26 performed and the defendant has been discharged or released
27 from all obligations of the bond, or if the property bail bond

1 is forfeited, then the bond shall be reduced to the bail bond
2 fee amount pursuant to paragraph b. of subdivision (1) of
3 subsection (a) and the property shall not be discharged or
4 released by the court until the bail bond fee pursuant to
5 paragraph b. of subdivision (1) of subsection (a) has been
6 paid in full.

7 "(4) The fees shall be collected pursuant to
8 paragraph b. of subdivision (1) of subsection (a) by the clerk
9 of the court. The fees pursuant to this section shall not be
10 remitted, waived, or reduced unless the defendant proves to
11 the reasonable satisfaction of the sentencing judge that the
12 defendant is not capable of paying the same within the
13 reasonably foreseeable future. The fees pursuant to this
14 section shall not be remitted, waived, or reduced unless all
15 other costs, fees, and charges of court are remitted or
16 waived.

17 "(5) The fees shall not reduce or affect the funds
18 allocated to the office of the court clerk, the sheriff, the
19 municipality, the district attorney, or the Alabama Department
20 of Forensic Sciences under any local act or other funding
21 mechanism under the law. These funds shall be in addition to
22 and not in lieu of any funds currently available to the office
23 of the court clerk, sheriff, municipality, the district
24 attorney, and the Alabama Department of Forensic Sciences.

25 "(f) The court clerks shall distribute on a monthly
26 basis as other fees are distributed, the fees collected
27 pursuant to paragraph a. of subdivision (1) of subsection (a)

1 as follows: Ten percent from each fee shall be distributed
2 either to the county general fund to be earmarked and
3 distributed to the Sheriff's Fund, administered by the
4 sheriff, in the county where the bond was executed or, where
5 the bond is executed by the municipality, to the municipality;
6 45 percent of the fee to the court clerk's fund where the bond
7 was executed or where the bond is executed by the municipal
8 court, to the municipality; 45 percent of the fee to the
9 Solicitor's Fund in the county where the bond was executed.
10 The bail bond fee records shall be audited by the Department
11 of Examiners of Public Accounts.

12 "(g) The court clerks shall distribute on a monthly
13 basis as other fees are distributed, the fees collected
14 pursuant to paragraph b. of subdivision (1) of subsection (a)
15 as follows: Twenty-one dollars and fifty cents (\$21.50) from
16 each fee shall be distributed to the county general fund which
17 shall be earmarked and distributed to the Sheriff's Fund,
18 administered by the sheriff, in the county where the bond was
19 executed or, where the bond was executed by a municipality, to
20 the municipality; 40 percent of the remainder of the fee to
21 the court clerk's fund where the bond was executed or where
22 the bond is executed by the municipal court, to the
23 municipality; 45 percent of the remainder of the fee to the
24 Solicitor's Fund in the county where the bond was executed;
25 five percent of the remainder of the fee to the ~~State General~~
26 ~~Fund~~ Office of Prosecution Services and ten percent of the
27 remainder of the fee to the Alabama Forensic Services Trust

1 Fund. The bail bond fee records shall be audited by the
2 Department of Examiners of Public Accounts."

3 Section 2. Section 7 of Act 2012-535 is repealed.

4 Section 3. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.