

1 HB143  
2 147789-1  
3 By Representative Hill  
4 RFD: Ways and Means General Fund  
5 First Read: 05-FEB-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           "(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 the official executing  
9 the bond at the execution of the bond or by the clerk of the  
10 court within ~~two business~~ 30 days of the execution of the bond  
11 or upon adjudication, conviction or other final disposition of  
12 the underlying offense, whichever occurs first. If the fee is  
13 collected by an official other than the clerk of the court,  
14 the official shall remit the fee to the clerk of the court,  
15 attached to the executed bond, within 30 days or upon  
16 adjudication or conviction of the underlying offense,  
17 whichever occurs first; if the fee is not collected by the  
18 official, the official shall provide documentation of the  
19 nonpayment, attached to the executed bond, to the clerk of the  
20 court within two business days. The clerk of the court may  
21 accept the payment of the fee if the clerk has the executed  
22 bond, together with proof of nonpayment and charging  
23 instrument, in hand. This fee shall be paid by the bondsman,  
24 surety, guaranty, or person signing as surety for the  
25 undertaking of bail. If the person is released on own  
26 recognizance, judicial public bail, or non-custodial offense  
27 pursuant to Rule 20 of the Alabama Rules of Judicial

1 Administration, the fee shall be assessed at the time of  
2 adjudication or at the time that any other fees and costs are  
3 assessed.

4 "(c) Upon the failure to pay the fee in paragraph a.  
5 of subdivision (1) of subsection (a) and upon a finding of  
6 contempt in subsection (d), the bondsman, surety, guaranty, or  
7 individuals required to pay the fee shall be punished by a  
8 fine of not less than five hundred dollars (\$500) in addition  
9 to the fee imposed in paragraph a. of subdivision (1) of  
10 subsection (a). The fine shall not be remitted, waived, or  
11 reduced unless the person(s) fined can show cause to the court  
12 that he or she cannot pay the fine in the reasonably  
13 foreseeable future.

14 "(d) If the fee in paragraph a. of subdivision (1)  
15 of subsection (a) is not paid in full within 30 days, the  
16 clerk of the court shall provide notification of the  
17 delinquency to the district attorney or prosecuting attorney  
18 ~~within two days of the clerk's entry of the case or if the~~  
19 ~~case is pending then within two days of the receipt of the~~  
20 ~~executed bond~~ on a monthly basis. Upon receipt of the  
21 certification of delinquency or failure to pay from the court,  
22 the district attorney or prosecuting attorney may take  
23 appropriate action which may include, but shall not be limited  
24 to, contempt proceedings. If contempt proceedings are  
25 initiated the district attorney or prosecuting attorney shall  
26 send notice by U.S. Mail to the last known address of the  
27 person charged with the crime, bondsman, surety, guaranty, or

1 person signing as surety for the undertaking of bail of the  
2 failure to pay and provide them 10 days to remit payment in  
3 full pursuant to this section. If the surety is the person  
4 charged with the crime where the fee applies, the district  
5 attorney or prosecuting attorney may file a petition for  
6 contempt and the court shall set the contempt hearing on the  
7 person's next regularly scheduled court appearance. If the  
8 surety is not the person charged with the crime the district  
9 attorney or prosecuting attorney may file a petition for  
10 contempt with the court, which may, after hearing, find the  
11 bondsman, surety, guaranty or person signing as surety the  
12 undertaking of bail in contempt. The municipal court clerk  
13 shall provide a list to the prosecuting attorney and district  
14 attorney every 60 days that shall include, but not be limited  
15 to, the name of every person who has failed to pay the fee,  
16 the municipal case number, and the name of the person signing  
17 as surety for the undertaking bail. If the prosecuting  
18 authority of the municipality does not initiate contempt  
19 proceedings pursuant to this section within 30 days of  
20 receiving notice from the clerk of the court, the district  
21 attorney with jurisdiction may file the contempt petition in  
22 the municipal court. If the district attorney initiates  
23 contempt proceedings in a municipal case and the person is  
24 found in contempt, the fine shall be distributed as follows:  
25 50% to the general fund of the municipality and 50% to the  
26 district attorney Solicitor's Fund.



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

5           "(2) Notwithstanding (e) (1), if the bail bond has  
6 been secured by cash, the conditions of release have been  
7 performed, and the defendant has been discharged from all  
8 obligations of the bond, or if the cash bail bond is forfeited  
9 the clerk of the court shall, unless otherwise ordered by the  
10 court, retain as the bail bond fee the amount pursuant to  
11 paragraph b. of subdivision (1) of subsection (a) and disburse  
12 the remainder as provided by law.

13           "(3) Notwithstanding (e) (1), if the property bail  
14 bond has been secured, the conditions of release have been  
15 performed and the defendant has been discharged or released  
16 from all obligations of the bond, or if the property bail bond  
17 is forfeited, then the bond shall be reduced to the bail bond  
18 fee amount pursuant to paragraph b. of subdivision (1) of  
19 subsection (a) and the property shall not be discharged or  
20 released by the court until the bail bond fee pursuant to  
21 paragraph b. of subdivision (1) of subsection (a) has been  
22 paid in full.

23           "(4) The fees shall be collected pursuant to  
24 paragraph b. of subdivision (1) of subsection (a) by the clerk  
25 of the court. The fees pursuant to this section shall not be  
26 remitted, waived, or reduced unless the defendant proves to  
27 the reasonable satisfaction of the sentencing judge that the

1 defendant is not capable of paying the same within the  
2 reasonably foreseeable future. The fees pursuant to this  
3 section shall not be remitted, waived, or reduced unless all  
4 other costs, fees, and charges of court are remitted or  
5 waived.

6 "(5) The fees shall not reduce or affect the funds  
7 allocated to the office of the court clerk, the sheriff, the  
8 municipality, the district attorney, or the Alabama Department  
9 of Forensic Sciences under any local act or other funding  
10 mechanism under the law. These funds shall be in addition to  
11 and not in lieu of any funds currently available to the office  
12 of the court clerk, sheriff, municipality, the district  
13 attorney, and the Alabama Department of Forensic Sciences.

14 "(f) The court clerks shall distribute on a monthly  
15 basis as other fees are distributed, the fees collected  
16 pursuant to paragraph a. of subdivision (1) of subsection (a)  
17 as follows: Ten percent from each fee shall be distributed  
18 either to the county general fund to be earmarked and  
19 distributed to the Sheriff's Fund, administered by the  
20 sheriff, in the county where the bond was executed or, where  
21 the bond is executed by the municipality, to the municipality;  
22 45 percent of the fee to the court clerk's fund where the bond  
23 was executed or where the bond is executed by the municipal  
24 court, to the municipality; 45 percent of the fee to the  
25 Solicitor's Fund in the county where the bond was executed.  
26 The bail bond fee records shall be audited by the Department  
27 of Examiners of Public Accounts.

1           "(g) The court clerks shall distribute on a monthly  
2 basis as other fees are distributed, the fees collected  
3 pursuant to paragraph b. of subdivision (1) of subsection (a)  
4 as follows: Twenty-one dollars and fifty cents (\$21.50) from  
5 each fee shall be distributed to the county general fund which  
6 shall be earmarked and distributed to the Sheriff's Fund,  
7 administered by the sheriff, in the county where the bond was  
8 executed or, where the bond was executed by a municipality, to  
9 the municipality; 40 percent of the remainder of the fee to  
10 the court clerk's fund where the bond was executed or where  
11 the bond is executed by the municipal court, to the  
12 municipality; 45 percent of the remainder of the fee to the  
13 Solicitor's Fund in the county where the bond was executed;  
14 five percent to the State General Fund and ten percent to the  
15 Alabama Forensic Services Trust Fund. The bail bond fee  
16 records shall be audited by the Department of Examiners of  
17 Public Accounts."

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

19           Section 3. This act shall become effective  
20 immediately following its passage and approval by the  
21 Governor, or its otherwise becoming law.