

1 SB31  
2 189085-1  
3 By Senator Albritton  
4 RFD: Judiciary  
5 First Read: 09-JAN-18  
6 PFD: 12/20/2017

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8 SYNOPSIS: Under existing law, a municipal judge is  
9 required to admit to bail a person charged with a  
10 violation of a municipal ordinance and is allowed  
11 to release the person on personal recognizance.

12 This bill would require a municipal judge to  
13 release a defendant coming before the court who is  
14 charged with committing a violation punishable by a  
15 fine or jail time, or both, on an unsecured  
16 appearance bond or on personal recognizance, with  
17 exceptions.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
22

23 Relating to bail in municipal court; to amend  
24 Section 12-14-5, Code of Alabama 1975, to require a municipal  
25 judge to release a defendant coming before the court who is  
26 charged with a violation punishable by a fine or jail time, or  
27 both, on either an unsecured appearance bond or on personal

1       recognizance, with exceptions; and to establish certain  
2       procedures for the release of the defendant.

3       BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4               Section 1. Section 12-14-5, Code of Alabama 1975, is  
5       amended to read as follows:

6               "§12-14-5.

7               "(a) As used in this section, the following terms  
8       shall have the following meanings:

9               "(1) PERSONAL RECOGNIZANCE. A defendant's release  
10       without any condition of an undertaking relating to, or a  
11       deposit of, security.

12               "(2) UNSECURED APPEARANCE BOND. An undertaking to  
13       pay to the clerk of the municipal court, for the use of the  
14       municipality, a specified sum of money upon the failure of a  
15       person released to comply with its conditions.

16               "(b) (1) Municipal judges shall ~~admit to bail~~ release  
17       any person coming before the court who is charged with  
18       ~~violation of any municipal ordinance~~ committing a violation  
19       ~~punishable by a fine or imprisonment, or both, by requiring~~  
20       ~~imposing an unsecured appearance bond, with good security, to~~  
21       ~~be approved by the respective municipal judges or their~~  
22       ~~designees,~~ in an amount not to exceed \$1,000.00 one thousand  
23       ~~dollars (\$1,000), and may, in their discretion, admit to bail~~  
24       ~~such person on a~~ or by releasing the person on personal  
25       ~~recognizance bond, such bonds to be conditioned on the~~  
26       ~~appearance of such person before the judge on a day named~~  
27       ~~therein to answer the charges preferred against him. The~~

1 ~~municipal judge may waive an appearance bond upon satisfactory~~  
2 ~~showing that the defendant is indigent or otherwise unable to~~  
3 ~~make bond.~~

4 "(2) If financial conditions of bail are set, the  
5 municipal judge shall first ensure that the defendant can  
6 afford to pay the financial obligations without substantial  
7 hardship and shall explain this finding in the written  
8 findings made on the record.

9 "(3) If for any reason the defendant is unable to  
10 pay the financial conditions of bail imposed, the municipal  
11 judge shall waive or reduce the financial conditions upon a  
12 satisfactory showing that the defendant is indigent or  
13 otherwise unable to make bond and may impose additional  
14 non-financial conditions of release.

15 "(4) A defendant released on personal recognizance  
16 or pursuant to the execution of an unsecured appearance bond  
17 shall be issued a citation to appear at a certain time or date  
18 and released no later than the completion of the booking  
19 process.

20 "(5) Subdivisions (1) and (4) do not apply if a  
21 preliminary determination has been made that the person poses  
22 a real and present danger to others or to the public at large  
23 or that such a release will not reasonably assure the  
24 defendant's appearance as required.

25 "(6) If a preliminary determination has been made  
26 pursuant to subdivision (5), the defendant shall be detained  
27 until the court conducts a hearing and makes written findings

1 on the record as to the appropriate conditions of release. In  
2 making that determination, the court shall be guided by the  
3 factors set forth in subsection (a) of Rule 7.2 of the Alabama  
4 Rules of Criminal Procedure.

5 "(7) A hearing under subdivision (6) shall take  
6 place within 48 hours of arrest if the defendant was arrested  
7 without a warrant or within 72 hours of arrest if the  
8 defendant was arrested with a warrant.

9 "(c) Notwithstanding the requirements of subsection  
10 (b), a municipal judge shall:

11 "(1) Follow the procedure outlined in subsection (a)  
12 of Section 15-13-190 when a defendant is charged with domestic  
13 violence or a violation of a domestic violence protection  
14 order.

15 "(2) Follow the procedure of subsection (n) of  
16 Section 32-5A-191 when a defendant is charged with driving  
17 under the influence."

18 Section 2. This act shall become effective on the  
19 first day of the third month following its passage and  
20 approval by the Governor, or its otherwise becoming law.