

SENATE BILL NO. 326

INTRODUCED BY C. FRIEDEL

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO BOND FORFEITURE;  
PROVIDING THAT WHEN A DEFENDANT FAILS TO APPEAR THE JUDGE SHALL DECLARE THE BOND  
FORFEITED; AND AMENDING SECTION 46-9-503, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 46-9-503, MCA, is amended to read:

**"46-9-503. Violation of release condition -- forfeiture.** (1) If a defendant violates a condition of release, including failure to appear, the prosecutor may make a written motion to the court for revocation of the order of release. A judge may issue a warrant for the arrest of a defendant charged with violating a condition of release. Upon arrest, the defendant must be brought before a judge in accordance with 46-7-101.

(2) If a defendant fails to appear before a court as required and bail has been posted, the judge ~~may~~shall declare the bail forfeited. Notice of the order of forfeiture must be mailed to the defendant and the defendant's sureties at their last-known address within 10 working days or the bond becomes void and must be released and returned to the surety within 5 working days.

(3) If at any time within 90 days after the forfeiture the defendant's sureties surrender the defendant pursuant to 46-9-510 or appear and satisfactorily excuse the defendant's failure to appear, the judge shall direct the forfeiture to be discharged without penalty. If at any time within 90 days after the forfeiture the defendant appears and satisfactorily excuses the defendant's failure to appear, the judge shall direct the forfeiture to be discharged upon terms as may be just.

(4) The surety bail bond must be exonerated upon proof of the defendant's death or incarceration or subjection to court-ordered treatment in a foreign jurisdiction for a period exceeding the time limits under subsection (3).

(5) A surety bail bond is an appearance bond only. It cannot be held or forfeited for fines, restitution, or violations of release conditions other than failure to appear. The original bond is in effect pursuant

1 to 46-9-121 and is due and payable only if the surety fails, after 90 days from forfeiture, to surrender the  
2 defendant or if the defendant fails to appear on the defendant's own within the same time period."

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