

## HB60 INTRODUCED



1 HB60  
2 EJFXLC2-1  
3 By Representative Tillman  
4 RFD: Judiciary  
5 First Read: 13-Jan-26  
6 PFD: 13-Nov-25



SYNOPSIS:

Under existing court rule, a court may continue a criminal and civil case upon a motion of a party or the court.

This bill would require a criminal and civil case be continued when a party, his or her leading attorney, or a witness satisfying certain criteria is absent because he or she is on active duty in the armed forces.

This bill would require in criminal cases that bail be set for certain defendants when the state is granted such a continuance.

This bill would also require the Alabama Supreme Court to amend its rules to conform with these requirements.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to criminal and civil procedure; to provide requirements for a court to continue a case when certain parties to the case are absent due to service with the National Guard or Armed Forces of the United States; to



## HB60 INTRODUCED

provide requirements in criminal cases for bail to be set for a defendant when the state is granted such a continuance, with exceptions; and to require the Alabama Supreme Court to amend its rules accordingly.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) (1) A court, upon or without motion, shall continue a criminal case when any party thereto or his or her leading attorney is absent from court when the case is reached because he or she is on active duty as a member of the National Guard or a reserve or active component of the Armed Forces of the United States.

(2) If the leading attorney is absent, his or her client shall make an oath that the client cannot safely go to trial without the attorney or, if a party is absent, his or her leading attorney shall state that the attorney cannot safely go to trial without the party.

(3) The case may proceed if the party, in the absence of his or her leading attorney, or the leading attorney, in the absence of the party, announces ready for trial on the call of the case.

(b) (1) A court shall continue a criminal case upon a showing by the state or the defendant that a witness is unavailable because the witness is on active duty as a member of the National Guard or as a member of a reserve or active component of the Armed Forces of the United States if all of the following are established by the movant:

a. The witness is material and necessary.

b. The witness is located outside of the state.



## HB60 INTRODUCED

57           c. The movant has submitted a request to the proper  
58 military authority for the testimony of the witness in  
59 accordance with 5 U.S.C. § 301, and any rule or directive  
60 adopted or issued by the proper authority pursuant to that  
61 section.

62           (c) (1) Except as provided in subdivisions (2) and (3),  
63 in any case in which the state is granted a continuance  
64 pursuant to subsection (a) or (b), a court shall set bail upon  
65 application by the defendant.

66           (2) For any case in which the defendant is accused of  
67 committing a violent offense as defined in Section 12-25-32,  
68 Code of Alabama 1975, the court may set bail.

69           (3) This subsection does not apply to a case when the  
70 defendant is charged with committing a capital offense under  
71 Section 13A-5-40, Code of Alabama 1975.

72           (d) This section shall apply to a criminal case to  
73 which a judge has been appointed pursuant to the Speedy Trial  
74 Act, Article 2 of Chapter 1 of Title 12, Code of Alabama 1975.

75           Section 2. (a) (1) A court, upon or without motion,  
76 shall continue a civil case when any party thereto or his or  
77 her leading attorney is absent from court when the case is  
78 reached because he or she is on active duty as a member of the  
79 National Guard or a reserve or active component of the Armed  
80 Forces of the United States.

81           (2) If the leading attorney is absent, his or her  
82 client shall make an oath that the client cannot safely go to  
83 trial without the attorney or, if a party is absent, his or  
84 her leading attorney shall state that the attorney cannot



## HB60 INTRODUCED

85 safely go to trial without the party.

86 (3) The case may proceed if the party, in the absence  
87 of his or her leading attorney, or the leading attorney, in  
88 the absence of the party, announces ready for trial on the  
89 call of the case.

90 (b) A court shall continue a civil case upon a showing  
91 by a party that a witness is unavailable because the witness  
92 is on active duty as a member of the National Guard or as a  
93 member of a reserve or active component of the Armed Forces of  
94 the United States if all of the following are established by  
95 the movant:

96 (1) The witness is material and necessary.

97 (2) The witness is located outside of the state.

98 (3) The movant has submitted a request to the proper  
99 military authority for the testimony of the witness in  
100 accordance with 5 U.S.C. § 301, and any rule or directive  
101 adopted or issued by the proper authority pursuant to that  
102 section.

103 Section 3. It is the intent of the Legislature that,  
104 pursuant to Section 150 of the Constitution of Alabama of  
105 2022, the Supreme Court of Alabama shall amend its rules to  
106 conform with this act.

107 Section 4. This act shall become effective on October  
108 1, 2026.