

Superseded 5/10/2016

77-20b-104 Forfeiture of bail.

- (1) If a surety fails to bring the defendant before the court within the time provided in Section 77-20b-102, the prosecuting attorney may request the forfeiture of the bail by:
 - (a) filing a motion for bail forfeiture with the court, supported by proof of notice to the surety of the defendant's nonappearance; and
 - (b) mailing a copy of the motion to the surety.
- (2) A court shall enter judgment of bail forfeiture without further notice if it finds by a preponderance of the evidence:
 - (a) the defendant failed to appear as required;
 - (b) the surety was given notice of the defendant's nonappearance in accordance with Section 77-20b-101;
 - (c) the surety failed to bring the defendant to the court within the six-month period under Section 77-20b-102; and
 - (d) the prosecutor has complied with the notice requirements under Subsection (1).
- (3) If the surety shows by a preponderance of the evidence that it has failed to bring the defendant before the court because the defendant is deceased through no act of the surety, the court may not enter judgment of bail forfeiture and the bond is exonerated.
- (4) The amount of bail forfeited is the face amount of the bail bond, but if the defendant is in the custody of another jurisdiction and the state extradites or intends to extradite the defendant, the court may reduce the amount forfeited to the actual or estimated costs of returning the defendant to the court's jurisdiction. A judgment under Subsection (5) shall:
 - (a) identify the surety against whom judgment is granted;
 - (b) specify the amount of bail forfeited;
 - (c) grant the forfeiture of the bail; and
 - (d) be docketed by the clerk of the court in the civil judgment docket.
- (5) A prosecutor may immediately commence collection proceedings to execute a judgment of bond forfeiture against the assets of the surety.