WEST VIRGINIA CODE: §62-1C-17b

§62-1C-17b. Procedures for failure to appear; penalties.

(a) Any person, who, having been released upon his or her personal recognizance pursuant to §62-1-1a of this code or having been otherwise admitted to bail and released in accordance with this article, and who shall willfully and without just cause fail to appear as and when it may be required of him or her, shall be guilty of the offense as hereinafter prescribed, and, upon conviction thereof, shall be punished in the manner hereinafter provided.

(b) If any such person was admitted to bail or released after being arrested for, charged or convicted of a felony and, shall thereafter be convicted for a violation of the provisions of subsection (a) of this section, such persons shall be guilty of a felony and, shall be fined not more than $5,000 or imprisoned not less than one nor more than five years, or both such fine and imprisonment.

(c) If any such person was admitted to bail or released after being arrested for, charged or convicted of a misdemeanor and, shall thereafter be convicted for a violation of the provision of subsection (a) of this section, such persons shall be guilty of a misdemeanor and, shall be fined not more the $1,000 or confined in the county jail for not more than one year, or both such fine and confinement.

(d) If any such person was admitted to bail or released pending appearance as a material witness and shall thereafter fail to appear when and where it shall have been required of him or her, such persons shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more the $1,000 or confined in the county jail not more than one year, or both such fine and confinement.

(e) Any penalty authorized by this section shall be in addition to any forfeiture authorized or mandated by this article or by any other provision of law.

(f) If any defendant admitted to bail and released in accordance with this article fails to appear at a scheduled court appearance, the court may issue a capias or bench warrant for failure to appear if it determines that the defendant was provided effective notice of the court appearance by the court.

(g) For the purposes of this subsection, "effective notice of the court appearance" means a notice stating the date, time, location, and purpose of the hearing, transmitted to the defendant or defendant’s counsel, no fewer than 10 days prior to the scheduled court appearance. The court may waive the 10 day requirement upon a finding of emergent circumstances.

(h) For purposes of capiases for failure to appear after indictment, newspaper publication

WV Legislature

alone does not constitute effective notice.

(i) Notwithstanding the provisions of subsections (a) through (d) of this section, where the record does not reflect that the person failing to appear received effective notice to appear from the court or where he or she has no documented history of failure to appear, a court, absent good cause shown, may not issue a capias until no fewer than 24 hours have elapsed since the failure to appear. If the defendant voluntarily appears within 24 hours, he or she is not subject to prosecution under this section.

(j) Nothing in subsection (f) of this section may be construed to limit a court's ability to issue a capias upon credible information of danger to a person or the community, new criminal conduct or a bail violation other than failure to appear.

(k) Upon the arrest of a defendant pursuant to a capias in the county in which the indictment or charge is pending, a hearing pursuant to §62-1C-1a of this code shall be scheduled and held within five days of the arrest.

(l) Upon the appearance in the county in which the indictment or charge is pending of a defendant against whom a capias has been issued the court shall provide written notice to the sheriff for his or her dissemination to all appropriate law-enforcement agencies, that the warrant or capias is no longer active and order it to be immediately removed from all databases.

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