

House of Representatives, April 2, 1998. The Committee on Judiciary reported through REP. LAWLOR, 99th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING FAILURE TO APPEAR.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-172 of the general  
2 statutes is repealed and the following is  
3 substituted in lieu thereof:

4 (a) A person is guilty of failure to appear  
5 in the first degree when [,] (1) while charged  
6 with the commission of a felony and while out on  
7 bail or released under other procedure of law, he  
8 wilfully fails to appear when legally called  
9 according to the terms of his bail bond or promise  
10 to appear, OR (2) WHILE ON PROBATION FOR  
11 CONVICTION OF A FELONY, HE WILFULLY FAILS TO  
12 APPEAR WHEN LEGALLY CALLED FOR A VIOLATION OF  
13 PROBATION HEARING.

14 (b) Failure to appear in the first degree is  
15 a class D felony.

16 Sec. 2. Section 53a-173 of the general  
17 statutes is repealed and the following is  
18 substituted in lieu thereof:

19 (a) A person is guilty of failure to appear  
20 in the second degree when [,] (1) while charged  
21 with the commission of a misdemeanor or a motor  
22 vehicle violation for which a sentence to a term  
23 of imprisonment may be imposed and while out on

24 bail or released under other procedure of law, he  
25 wilfully fails to appear when legally called  
26 according to the terms of his bail bond or promise  
27 to appear, OR (2) WHILE ON PROBATION FOR  
28 CONVICTION OF A MISDEMEANOR OR MOTOR VEHICLE  
29 VIOLATION, HE WILFULLY FAILS TO APPEAR WHEN  
30 LEGALLY CALLED FOR A VIOLATION OF PROBATION  
31 HEARING.

32 (b) Failure to appear in the second degree is  
33 a class A misdemeanor.

34 STATEMENT OF LEGISLATIVE COMMISSIONERS: The new  
35 language in sections 1 and 2 was rephrased for  
36 statutory consistency.

37 JUD COMMITTEE VOTE: YEA 39 NAY 0 JFS-LCO



**OLR BILL ANALYSIS**

sHB 5480

**AN ACT CONCERNING FAILURE TO APPEAR**

**SUMMARY:** This bill extends the crime of failure to appear to include all cases where an individual on probation for conviction of a felony, misdemeanor, or motor vehicle violation willfully fails to appear when legally called for a violation of probation hearing. This applies whether the individual has been issued a notice to appear or has been arrested and released pending a hearing.

The bill makes the failure to appear at such a hearing a class D felony when the underlying conviction is a felony. This is punishable with one to five years imprisonment, a fine of up to \$5,000, or both. Failure to appear is a class A misdemeanor when the underlying conviction is a misdemeanor or motor vehicle violation. This is punishable by up to one year imprisonment, a fine of up to \$2,000, or both.

EFFECTIVE DATE: October 1, 1998

**BACKGROUND****"Willfully Failed to Appear"**

Under case law, in order to show that an individual willfully failed to appear the state must prove beyond a reasonable doubt that the defendant either received and deliberately ignored a notice to appear or that he intentionally embarked on a course of conduct designed to prevent him from receiving such notice.

**Violations of Probation**

A judge can issue a notice or a warrant for the arrest of an individual who has violated probation and a probation officer may also arrest an individual.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Report  
Yea 39      Nay 0