

Support HB 2231: End Felony Charges for Missing a Court Hearing

Did you know that a person who misses just one court hearing can be charged with and convicted of a new felony simply for missing that court hearing?

HB 2231 Is a Simple and Fair Solution

1. Requires all courts to provide written notice to every defendant with their next court date.
2. Makes the offense of missing a court hearing a misdemeanor in all situations and stops prosecutor practice of stacking felony charges to increase sentences when one misses a court hearing.

When the Legislature enacted the “bail jumping” statute, the intent wasn’t to criminalize every missed court date or failure to appear (FTA), rather lawmakers wanted to give the courts a tool to deter people charged with serious crimes from fleeing. The legislature gave discretion to prosecutors to add a felony charge if someone “jumped bail.” Sadly, this prosecutorial discretion is being overused. The charge of “bail jumping” has now led to a long list of unintended consequences that disproportionately harm Washington’s low-income and most marginalized citizens.

Missing Court Can’t Always Be Avoided

Research shows that most people charged with “bail jumping” were not intentionally avoiding court. Many had difficult life circumstances that made it hard or impossible to attend a court hearing on a particular day. They were not fleeing from the court, and they wanted to resolve their cases. Research also shows that many people who miss court are experiencing difficulties with transportation, childcare, job disruption, homelessness, health problems, mental illness and other challenges related to poverty. Under current “bail jumping” laws, Washington disproportionately and unjustly allows for longer criminal sentences for people who are low-income or experiencing a crisis for the charge of “bail jumping” even though that was never the legislature’s intent.

Why Do Many People Miss Court?

Transportation Difficulties

Many people do not have affordable, safe and timely transportation. Bus service to many courts is limited. The Department of Licensing suspends the drivers licenses of people who have unpaid traffic tickets, leaving many indigent people with reduced mobility.

Job Disruption

Many people are unable to miss work or face losing their jobs when they miss work to attend a court hearing.

Homelessness

Many people are experiencing the trauma and challenge of homelessness.

Caring for Children and Family

Many people are the primary care providers for children or aging and disabled family members who they cannot leave at home alone.

Mental Health Issues

Many people struggle with mental health issues and/or substance dependency, which makes getting to court more difficult.

Economic Struggles

There are studies on the predictors of pretrial failure to appear that show FTA is highly correlated to indigence.



HOW THE CURRENT LAW HARMS WASHINGTON'S RESIDENTS

How does someone get charged with a new felony just for missing court when judges have other tools for compelling people to come to court?

When someone misses court for almost any reason, the prosecutor has discretion to charge that person with "bail jumping," a whole new crime that matches the same classification, misdemeanor or felony, as the crime originally charged.

Other tools exist to prevent people from missing court.

Courts and judges already have many tools to ensure that individuals accused of crimes attend court appearances. These include:

- Warrants for arrest
- Reminder systems, including text messaging, phone calls, and postcards
- Ensuring defendants receive court paperwork with upcoming court dates
- Court childcare centers

How does the felony of "Bail Jumping" lead to longer incarceration?

If a person is charged with and convicted of "bail jumping," they can be subject to more incarceration time for that conviction than they face for the original charge, even if they are found not guilty of the underlying charge.

Why is the felony of "Bail Jumping" unfair and unnecessary?

- It is in addition to the warrant for arrest.
- It unjustly increases prison ranges.
- It disproportionately harms people of color and people who are indigent.
- It is inconsistent with effective ways to decrease FTA rates.
- It prevents some accused people from exercising the right to trial because prosecutors frequently add or threaten to add felony charges of "bail jumping" if the accused person does not plead guilty to the original charge.

The real world impact on people who miss court under the current law *

"One of my clients was a mother who was at the pediatrician's office with a very sick child and so couldn't make it to court. The mother was not ill so she was charged with Bail Jump for missing court to care for her child at the doctor's appointment."

"I recently had a case with blind client. Her disability caused a great deal of logistical problems and issues in the case. The prosecutor threatened to file multiple bail jumps so the blind client felt that she had no choice but to plead guilty to the underlying charge."

"Our client came to the United States when he was 18 years old, seeking a better life. ... As he explained to the immigration judge during his deportation hearing, the reason he missed court was that he had a job interview the same day, and had forgotten about his court date because he was focused on the importance of the interview and finding a job. Once he was made aware that he had missed court, he responsibly scheduled a date to appear to quash his warrant. Not realizing the immigration consequences, he took a plea deal for felony bail jumping. He was later placed in deportation proceedings on this basis."

*Stories were collected through in-person and online interviews with public defenders throughout the state.

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