

1 **Rule 41. Unsecured Bonds**

2 **(a) Notice of Non-Appearance**

3 (a)(1) If a defendant released on an unsecured bond fails to appear as required, the court must within
4 7 days of the failure to appear, send notice of the nonappearance to the defendant and the prosecutor.
5 The clerk of the court shall:

6 (a)(1)(A) email the notice to the defendant at the email address provided on the bond, or mail
7 notice to the defendant if an email address was not provided; and

8 (a)(1)(B) email a copy of the notice to the prosecutor.

9 **(b) Forfeiture Hearing.** A forfeiture hearing may not be scheduled earlier than 30 days from the date
10 the notice was sent.

11 (b)(1) The forfeiture hearing date must be included in the notice of nonappearance.

12 (b)(2) If a defendant appears in court prior to the forfeiture hearing, the court must reinstate or
13 exonerate the bond.

14 (b)(3) If the defendant failed to appear because the defendant was, or is, in the custody of authorities,
15 the bond may not be forfeited.

16 (b)(4) The court may continue the forfeiture hearing upon application by either party.

17 (b)(5) The court may reinstate or exonerate the unsecured bond if the court finds that the failure to
18 appear was not due to the defendant's neglect.

19 **(c) Forfeiture Judgment.**

20 (c)(1) A court may enter a forfeiture judgment without further notice if the court finds by a
21 preponderance of evidence that:

22 (c)(1)(A) the defendant failed to appear as required;

23 (c)(1)(B) the defendant and prosecutor were provided with notice of nonappearance in
24 accordance with paragraph (a); and

25 (c)(1)(C) a forfeiture hearing was held in accordance with paragraph (b).

26 (c)(2) The amount of the judgment may not exceed the amount of the bond.

27 (c)(3) The court must email a signed copy of the judgment to the prosecutor and defendant, or by
28 mail to the defendant if an email was not provided on the bond.

29 **(d) Exoneration**

30 (d)(1) An unsecured bond must be exonerated without motion:

31 (d)(1)(A) at the conclusion of the case, after the defendant is sentenced. If the sentence
32 includes a commitment to jail or prison, the court can hold the bond until the defendant
33 appears at the jail or prison, or 7 days has passed, whichever occurs first;

34 (d)(1)(B) if there has not been any activity on the case for 12 months from the date the bond
35 was executed;

36 (d)(1)(C) if the defendant has passed away; or

37 (d)(1)(D) if the defendant is in custody out of state and the prosecutor elects, in writing, not
38 to extradite the defendant.

39 (d)(2) If an Information, indictment, or request to extend time has not been filed within 120 days of
40 the receipt of a signed unsecured bond, the court must exonerate the bond.

41 **(e) Amending or Discharging Forfeiture Judgment.** A court may, on its own motion or upon motion
42 of a party, amend or set aside a forfeiture judgment. Nothing in this rule precludes the defendant from
43 filing a motion under [Rule 60\(b\)](#) of the Utah Rules of Civil Procedure to set aside the forfeiture
44 judgment.

45 | Effective October 1, 2020