

By: Representative Rogers

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 452

1 AN ACT TO AMEND SECTION 99-5-25, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT AN ORDER INVOLVING BOND MAY BE SET ASIDE IF THE CLERK
3 OF THE COURT DOES NOT PROVIDE NOTICE OF FORFEITURE WITHIN THE
4 PRESCRIBED NOTICE PERIOD; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. Section 99-5-25, Mississippi Code of 1972, is
7 amended as follows:

8 99-5-25. (1) If a defendant, prosecutor, or witness in any
9 criminal case, proceeding, or matter, fails to appear for any
10 proceeding as ordered by the court, then the court shall order the
11 bail forfeited and a bench warrant issued at the time of
12 nonappearance. The purpose of bail is to guarantee appearance and
13 bail shall not be forfeited for any other reason. Upon
14 declaration of such forfeiture the court shall issue a judgment
15 nisi. The clerk of the court shall notify the surety of the
16 forfeiture by writ of scire facias within five (5) working days of
17 such order of judgment nisi either by personal service or by
18 certified mail. If the clerk does not provide the required notice
19 within ten (10) working days, such action shall be a prima facie
20 reason to set aside the order. The judgment nisi shall be
21 returnable for ninety (90) days from the date of issuance. If
22 during such period the defendant appears before the court or is
23 arrested and surrendered, then the judgement nisi shall be set
24 aside. If the surety fails to produce the defendant and does not
25 provide to the court reasonable mitigating circumstances upon such
26 showing, then the forfeiture shall be made final. Reasonable
27 mitigating circumstances shall be that the defendant is

28 incarcerated in another jurisdiction, that the defendant is
29 hospitalized under a doctor's care, that the defendant is in a
30 recognized drug rehabilitation program, that the defendant has
31 been placed in a witness protection program and it shall be the
32 duty of any such agency placing such defendant into a witness
33 protection program to notify the court and the court to notify the
34 surety, or any other reason justifiable to the court.

35 (2) If a final judgment is entered against a surety licensed
36 by the Department of Insurance and has not been set aside after
37 ninety (90) days, or later if such time is extended by the court
38 issuing the judgment nisi, then the court shall order the
39 department to revoke the authority of such surety to write bail
40 bonds. The commissioner shall, upon notice of the court, notify
41 said surety within five (5) working days of receipt of revocation.

42 If after ten (10) working days of such notification the
43 revocation order has not been set aside by the court, then the
44 commissioner shall revoke the authority of the surety and all
45 agents of the surety and shall notify the sheriff of every county
46 of such revocation.

47 (3) If within twelve (12) months of the date of the final
48 forfeiture the defendant appears for court, is arrested or
49 surrendered to the court, or if the defendant is found to be
50 incarcerated in another jurisdiction and a hold order placed on
51 the defendant, then the amount of bail, less reasonable
52 extradition cost, excluding attorney fees, shall be refunded by
53 the court upon application by the surety.

54 SECTION 2. This act shall take effect and be in force from
55 and after July 1, 1999.