

By: Representative Moore

To: Judiciary B

HOUSE BILL NO. 801

1 AN ACT TO AMEND SECTIONS 99-5-5, 99-5-7, 99-5-9 AND 99-5-11,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PERSONS UNDER THE AGE OF
3 18 YEARS ARRESTED FOR ALCOHOL OFFENSES MAY ONLY BE BAILED BY A
4 PARENT OR GUARDIAN; AND FOR RELATED PURPOSES.

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

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

8 99-5-5. (1) All bonds and recognizances taken for the
9 appearance of any party, either as defendant, prosecutor, or
10 witness in any criminal proceeding or matter, shall be made
11 payable to the state, and shall have the effect to bind the
12 accused and his sureties on the bond or recognizance until the
13 principal shall be discharged by due course of law, and shall be
14 in full force, from term to term, for a period of three (3) years,
15 except that a bond returnable to the Supreme Court shall be in
16 full force for a period of five (5) years. If it is necessary to
17 renew a bond, it shall be renewed without additional premium. At
18 the end of the applicable period, a bond or recognizance that is
19 not renewed shall expire and shall be uncollectible unless the
20 collection process was started on or before the expiration date of
21 such bond or recognizance. Any bond or recognizance taken prior
22 to July 1, 1996, shall expire on July 1, 1999. If a defendant is

23 charged with multiple counts in one (1) warrant only one (1) bond
24 shall be taken.

25 (2) Any person under the age of eighteen (18) years who is
26 arrested for any offense involving alcoholic beverages may only
27 have bond posted by such person's parent or guardian.

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29 SECTION 2. Section 99-5-7, Mississippi Code of 1972, is
30 amended as follows:

31 99-5-7. Except as otherwise provided in Sections 99-5-5(2),
32 99-5-9 and 99-5-11, bail may be given to the sheriff or officer
33 holding the defendant in custody, by a fidelity or surety
34 insurance company authorized to act as surety within the State of
35 Mississippi. Any such company may execute the undertaking as
36 surety by the hand of officer or attorney authorized thereto by a
37 resolution of its board of directors, a certified copy of which,
38 under its corporate seal, shall be on file with the clerk of the
39 circuit court and the sheriff of the county, and such authority
40 shall be deemed in full force and effect until revoked in writing
41 by notice to said clerk and sheriff.

42 SECTION 3. Section 99-5-9, Mississippi Code of 1972, is
43 amended as follows:

44 99-5-9. In addition to any type of bail allowed by statute,
45 any committing court, in its discretion, may allow any defendant,
46 to whom bail is allowable, to deposit cash as bail bond in lieu of
47 a surety or property bail bond, by depositing such cash sum as the
48 court may direct with the sheriff or officer having custody of
49 defendant, who shall receipt therefor and who shall forthwith
50 deliver the said monies to the county treasurer, who shall receipt
51 therefor in duplicate. The sheriff, or other officer, upon
52 receipt of the county treasurer, shall forthwith deliver one copy
53 of such receipt to the committing court who shall then order the

54 release of such defendant.

55 The order of the court shall set forth the conditions upon
56 which such cash bond is allowed and shall be determined to be the
57 agreement upon which the bailee has agreed.

58 The sums received by the county treasurer shall be deposited
59 by him in a special fund to be known as "Cash Bail Fund," and
60 shall be received by him subject to the terms and conditions of
61 the order of the court.

62 Any person under the age of eighteen (18) years who is
63 arrested for any offense involving alcoholic beverages may only
64 have bail posted by such person's parent or guardian.

65 SECTION 4. Section 99-5-11, Mississippi Code of 1972, is
66 amended as follows:

67 99-5-11. All justices of the peace and all other
68 conservators of the peace are authorized, whenever a person is
69 brought before them charged with any offense not capital for which
70 bail is allowed by law, to take the recognizance or bond of such
71 person, with sufficient sureties, in such penalty as the justice
72 or conservator of the peace may require, for his appearance before
73 such justice or conservator for an examination of his case at some
74 future day. And if the person thus recognized or thus giving
75 bond, fail to appear at the appointed time, it shall be the duty
76 of the justice or conservator to return the recognizance or bond,
77 with his certificate of default, to the court having jurisdiction
78 of the case, and a recovery may be had therein by scire facias, as
79 in other cases of forfeiture. The justice or other conservator
80 shall also issue an alias warrant for the defaulter.

81 Any person under the age of eighteen (18) years who is

82 arrested for any offense involving alcoholic beverages may only
83 have bail posted by such person's parent or guardian.

84 SECTION 5. This act shall take effect and be in force from
85 and after July 1, 1999.