

By: Senator(s) Burton

To: Judiciary

SENATE BILL NO. 2734

1 AN ACT TO AMEND SECTION 99-5-25, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT A BOND SHALL BE VOID IF THE CLERK OF THE COURT DOES
3 NOT PROVIDE NOTICE OF FORFEITURE WITHIN THE PRESCRIBED NOTICE
4 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 five (5) working days, the bond shall be void. The
20 judgment nisi shall be returnable for ninety (90) days from the
21 date of issuance. If during such period the defendant appears
22 before the court or is arrested and surrendered, then the
23 judgement nisi shall be set aside. If the surety fails to produce
24 the defendant and does not provide to the court reasonable
25 mitigating circumstances upon such showing, then the forfeiture
26 shall be made final. Reasonable mitigating circumstances shall be
27 that the defendant is incarcerated in another jurisdiction, that

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

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

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

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

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