

By: Senator(s) Turner

To: Judiciary

SENATE BILL NO. 2840

1 AN ACT TO AMEND SECTIONS 83-39-7 AND 99-5-27, MISSISSIPPI
2 CODE OF 1972, TO REVISE THE MANNER OF RETURN OF DEFENDANT OUT ON
3 BOND; AND FOR RELATED PURPOSES. BE IT ENACTED BY THE
4 LEGISLATURE OF THE STATE OF MISSISSIPPI:

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6 SECTION 1. Section 83-39-7, Mississippi Code of 1972, is
7 amended as follows:

8 83-39-7. Each applicant for professional bail agent who acts
9 as personal surety shall be required to post a qualification bond
10 in the amount of Five Thousand Dollars (\$5,000.00) with the
11 department. Any professional bail agent making application for
12 license renewal, as herein provided, who shall have furnished bail
13 in fifty (50) or more criminal cases shall post such bond in the
14 amount of Ten Thousand Dollars (\$10,000.00). The qualification
15 bond shall be made by depositing with the commissioner the
16 aforesaid amount of bonds of the United States, State of
17 Mississippi, or any agency or subdivision thereof, or shall be
18 written by an insurer as defined in this chapter, shall meet the
19 specifications as may be required and defined in this chapter, and
20 shall meet such specifications as may be required and approved by
21 the department. The bond shall be conditioned upon the full and
22 prompt payment of any bail bond issued by such professional bail
23 agent into the court ordering the bond forfeited. The bond shall
24 be to the people of the State of Mississippi in favor of any court
25 of this state, whether municipal, justice, county, circuit,
26 Supreme or other court. If any bond issued by a professional bail
27 agent is declared forfeited and judgment entered thereon by a

28 court of proper jurisdiction and the amount of the bond is not
29 paid within ninety (90) days, that court shall order the
30 department to declare the qualification bond of the professional
31 bail agent to be forfeited and the license revoked. The
32 department shall then order the surety on the qualification bond
33 to deposit with the court an amount equal to the amount of the
34 bond issued by the professional bail agent and declared forfeited
35 by the court, or the amount of the qualification bond, whichever
36 is the smaller amount. The department shall, after hearing held
37 upon not less than ten (10) days' written notice, suspend the
38 license of the professional bail agent until such time as another
39 qualification bond in the required amount is posted with the
40 department. The revocation of the license of the professional
41 bail agent shall also serve to revoke the license of each
42 soliciting bail agent and bail enforcement agent employed or used
43 by such professional bail agent. In the event of a final judgment
44 of forfeiture of any bail bond written under the provisions of
45 this chapter, the amount of money so forfeited by the final
46 judgment of the proper court, less all accrued court costs and
47 excluding any interest charges or attorney's fees, shall be
48 refunded to the bail agent or his insurance company upon proper
49 showing to the court as to which is entitled to same, provided the
50 defendant in such cases is returned to the sheriff of the county
51 to which the original bail bond was returnable within twelve (12)
52 months of the date of such final judgment, or proof made of
53 incarceration of the defendant in another jurisdiction, and that a
54 "Hold Order" has been placed upon the defendant for return of the
55 defendant to the sheriff upon release from the other jurisdiction,
56 the return to the sheriff to be the responsibility of the
57 professional bail agent at no cost to the county to which the
58 defendant is being returned, then the bond forfeiture shall be
59 stayed and remission made upon petition to the court, in the
60 amount found in the court's discretion to be just and proper. A
61 bail agent licensed under this chapter shall have a right to apply
62 for and obtain from the proper court an extension of time delaying
63 a final judgment of forfeiture if such bail agent can
64 satisfactorily establish to the court wherein such forfeiture is

65 pending that the defendant named in the bail bond is lawfully in
66 custody outside of the State of Mississippi.

67 SECTION 2. Section 99-5-27, Mississippi Code of 1972, is
68 amended as follows:

69 99-5-27. (1) (a) "Surrender" means the delivery of the
70 defendant, principal on bond, physically to the sheriff or chief
71 of police or in his absence, his jailer, and it is the duty of the
72 sheriff or chief of police, or his jailer, to accept the surrender
73 of the principal when presented and such act is complete upon the
74 execution of verbal or written surrender notice presented by bail
75 and shall relieve bail of liability on principal's bond.

76 (b) Bail may surrender principal if principal is found
77 to be detained on another charge * * *. If principal is found
78 incarcerated in another jurisdiction, bail may surrender him by
79 verbal or written notice of surrender to the sheriff or chief of
80 police, or his jailer, of that jurisdiction and the notice of
81 surrender shall act as a "Hold Order" and upon presentation of
82 written surrender notice to the court of proper jurisdiction, the
83 court shall order a "Hold Order" placed on the principal for the
84 court and shall relieve bail of liability on principal's bond,
85 with the provision that, upon release from incarceration in the
86 other jurisdiction, return of the principal to the sheriff shall
87 be the responsibility of bail at no cost to the county.

88 (c) The surrender of principal by bail, within the time
89 period provided in Section 99-5-25, shall serve to discharge its
90 liability to the State of Mississippi and any of its courts; but
91 if this be done after forfeiture of the bond or recognizance, the
92 court shall set aside the judgment nisi or final judgment upon
93 filing of surrender notice by bail.

94 (2) (a) Bail, or its agent, at any time, may surrender its
95 principal to any law enforcement agency or in open court in
96 discharge of its liability on the principal's bond if the law
97 enforcement agency that was involved in setting the original bond
98 approves of such surrender, to the State of Mississippi and any of
99 its courts and at any time may arrest and transport its principal
100 anywhere or may authorize another to do so, may be assisted by any
101 law enforcement agency or its agents anywhere upon request of bail

102 and may receive any information available to law enforcement or
103 the courts pertaining to the principal for the purpose of safe
104 surrender or for any reasonable cause in order to safely return
105 the principal to the custody of law enforcement and the court.

106 (b) Bail, or its agent, at any time, may arrest its
107 principal anywhere or authorize another to do so for the purpose
108 of surrender of the principal on bail bond. Failure of the
109 sheriff or chief of police or his jailer, any law enforcement
110 agency or its agents or the court to accept surrender by bail or
111 its agent shall relieve bail of any liability on principal's bond,
112 and the bond shall be held for naught.

113 (3) Bail, or its agent, at any time, upon request by the
114 defendant or others on behalf of the defendant, may privately
115 interview the defendant to obtain information to help with
116 surrender before posting any bail bond on behalf of the defendant.

117 All licensed bail agents shall have equal access to jails or
118 detention facilities for the purpose of such interviews, the
119 posting of bail bonds and the surrender of principal.

120 (4) Upon surrender, the court, after full review of the
121 defendant and the pending charges, in open court, may discharge
122 the prisoner on his giving new bail, but if he does not give new
123 bail, he shall be detained in jail.

124 SECTION 3. This act shall take effect and be in force from
125 and after July 1, 1999.