

By: Senator(s) Turner

To: Judiciary

SENATE BILL NO. 2840
(As Passed the Senate)

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. (1) Each applicant for professional bail agent who
9 acts as personal surety shall be required to post a qualification
10 bond 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 as provided in subsection (2) of this
58 section, then the bond forfeiture shall be stayed and remission
59 made upon petition to the court, in the amount found in the
60 court's discretion to be just and proper. A bail agent licensed
61 under this chapter shall have a right to apply for and obtain from
62 the proper court an extension of time delaying a final judgment of
63 forfeiture if such bail agent can satisfactorily establish to the
64 court wherein such forfeiture is pending that the defendant named

65 in the bail bond is lawfully in custody outside of the State of
66 Mississippi.

67 (2) The professional bail agent shall satisfy the
68 responsibility to return the defendant who has been held by a
69 "Hold Order" in another jurisdiction upon release from the other
70 jurisdiction:

71 (a) By personally returning the defendant to the
72 sheriff at no cost to the county; or

73 (b) Where the other jurisdiction will not release the
74 defendant to any person other than a law enforcement officer, by
75 reimbursing to the county the reasonable cost of the return of the
76 defendant, not to exceed the cost that would be entailed if the
77 option in paragraph (a) of this subsection were available.

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

80 99-5-27. (1) (a) "Surrender" means the delivery of the
81 defendant, principal on bond, physically to the sheriff or chief
82 of police or in his absence, his jailer, and it is the duty of the
83 sheriff or chief of police, or his jailer, to accept the surrender
84 of the principal when presented and such act is complete upon the
85 execution of verbal or written surrender notice presented by bail
86 and shall relieve bail of liability on principal's bond.

87 (b) Bail may surrender principal if principal is found
88 to be detained on another charge * * *. If principal is found
89 incarcerated in another jurisdiction, bail may surrender him by
90 verbal or written notice of surrender to the sheriff or chief of
91 police, or his jailer, of that jurisdiction and the notice of
92 surrender shall act as a "Hold Order" and upon presentation of
93 written surrender notice to the court of proper jurisdiction, the
94 court shall order a "Hold Order" placed on the principal for the
95 court and shall relieve bail of liability on principal's bond,
96 with the provision that, upon release from incarceration in the
97 other jurisdiction, return of the principal to the sheriff shall
98 be the responsibility of bail. Bail shall satisfy the
99 responsibility to return a principal held by a "Hold Order" in
100 another jurisdiction upon release from the other jurisdiction
101 either by personally returning principal to the sheriff at no cost

102 to the county or, where the other jurisdiction will not release
103 principal to any person other than a law enforcement officer, by
104 reimbursing to the county the reasonable cost of the return of
105 principal, not to exceed the cost that would be entailed if the
106 first option were available.

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

113 (2) (a) Bail, or its agent, at any time, may surrender its
114 principal to any law enforcement agency or in open court in
115 discharge of its liability on the principal's bond if the law
116 enforcement agency that was involved in setting the original bond
117 approves of such surrender, to the State of Mississippi and any of
118 its courts and at any time may arrest and transport its principal
119 anywhere or may authorize another to do so, may be assisted by any
120 law enforcement agency or its agents anywhere upon request of bail
121 and may receive any information available to law enforcement or
122 the courts pertaining to the principal for the purpose of safe
123 surrender or for any reasonable cause in order to safely return
124 the principal to the custody of law enforcement and the court.

125 (b) Bail, or its agent, at any time, may arrest its
126 principal anywhere or authorize another to do so for the purpose
127 of surrender of the principal on bail bond. Failure of the
128 sheriff or chief of police or his jailer, any law enforcement
129 agency or its agents or the court to accept surrender by bail or
130 its agent shall relieve bail of any liability on principal's bond,
131 and the bond shall be held for naught.

132 (3) Bail, or its agent, at any time, upon request by the
133 defendant or others on behalf of the defendant, may privately
134 interview the defendant to obtain information to help with

135 surrender before posting any bail bond on behalf of the defendant.

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

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

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