

By: Stevens, Montgomery (74th)

To: Judiciary B

HOUSE BILL NO. 888

1 AN ACT TO AMEND SECTION 83-39-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT CERTAIN RELATIVES OF LAW ENFORCEMENT OFFICIALS SHALL
3 NOT BE LICENSED AS BAIL AGENTS; TO AMEND SECTION 83-39-1,
4 MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM "RELATIVE"; TO AMEND
5 SECTION 83-39-5, MISSISSIPPI CODE OF 1972, TO REVISE THE
6 APPLICATION FOR A LICENSE AS A BAIL AGENT; TO AMEND SECTION
7 83-39-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PROFESSIONAL
8 BAIL AGENTS SHALL NOT HAVE CERTAIN RELATIVES IN THEIR EMPLOY; TO
9 AMEND SECTION 83-39-15, MISSISSIPPI CODE OF 1972, TO REVISE
10 GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF THE LICENSE OF A
11 BAIL AGENT; AND FOR RELATED PURPOSES.

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

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

15 83-39-1. The following terms when used in this chapter shall
16 have the following meanings:

17 (a) "Department" means the Department of Insurance.

18 (b) "Commissioner" means the Commissioner of Insurance.

19 (c) "Insurer" means any domestic or foreign insurance
20 corporation or association engaged in the business of insurance or
21 suretyship which has qualified to transact surety or casualty
22 business in this state.

23 (d) "Professional bail agent" means any individual who
24 shall furnish bail, acting as a licensed personal surety agent or
25 as a licensed limited surety agent representing an insurer as

26 defined by this chapter. The above definition shall not include,
27 and this chapter does not apply to, any individual who acts as
28 personal surety in instances where there is no compensation
29 charged or received for such service.

30 (e) "Soliciting bail agent" means any person who, as an
31 agent or employee of a professional bail agent, or as an
32 independent contractor, for compensation or otherwise, shall
33 solicit, advertise or actively seek bail bond business for or in
34 behalf of a professional bail agent.

35 (f) "Bail enforcement agent" means a person who assists
36 the professional bail agent in presenting the defendant in court
37 when required, or who assists in the apprehension and surrender of
38 the defendant to the court or who keeps the defendant under
39 necessary surveillance. Nothing herein shall affect the right of
40 professional bail agents to have counsel or to ask assistance of
41 law enforcement officers.

42 (g) "Limited surety agent" means any individual who is
43 appointed by an insurer by power of attorney to execute or
44 countersign bail bonds in connection with judicial proceedings,
45 and who is duly licensed by the commissioner to represent such
46 insurer for the restricted lines of bail, fidelity and surety,
47 after successfully completing a limited examination by the
48 department for the restricted lines of business.

49 (h) "Personal surety agent" means any individual who,
50 having posted the necessary qualification bond with the
51 commissioner as required by Section 83-39-7, and duly licensed by
52 the commissioner, may execute and sign bail bonds in connection
53 with judicial proceedings. All new personal surety agents
54 licensed after July 1, 1994, shall complete successfully a limited
55 examination by the department for the restricted lines of
56 business.

57 (i) "Relative" means the spouse, child or parent.

58 SECTION 2. Section 83-39-3, Mississippi Code of 1972, is
59 amended as follows:

60 83-39-3. (1) No person shall act in the capacity of
61 professional bail agent, soliciting bail agent or bail enforcement
62 agent, as defined in Section 83-39-1, or perform any of the
63 functions, duties or powers of the same unless that person shall
64 be qualified and licensed as provided in this chapter. The terms
65 of this chapter shall not apply to any automobile club or
66 association, financial institution, insurance company or other
67 organization or association or their employees who execute bail
68 bonds on violations arising out of the use of a motor vehicle by
69 their members, policyholders or borrowers when bail bond is not
70 the principal benefit of membership, the policy of insurance or of
71 a loan to such member, policyholder or borrower.

72 (2) No license shall be issued except in compliance with
73 this chapter, and none shall be issued except to an individual.
74 No firm, partnership, association or corporation, as such, shall
75 be so licensed. No professional bail agent shall operate under
76 more than one (1) trade name. A soliciting bail agent and bail
77 enforcement agent shall operate only under the professional bail
78 agent's name. No person who has ever been convicted of a felony
79 or any crime involving moral turpitude, or who has not been a
80 resident of this state for at least one (1) year, unless presently
81 licensed for bail bonds, or who is under twenty-one (21) years of
82 age, shall be issued a license hereunder. No person engaged as a
83 law enforcement or judicial official or attorney shall be licensed
84 hereunder. No person who is a relative of a law enforcement

85 official or who is a relative of an employee of a law enforcement
86 official or a law enforcement entity shall be licensed hereunder.

87 No person licensed under this chapter shall act as a personal
88 surety agent in the writing of bail during a period he or she is
89 licensed as a limited surety agent, as defined herein.

90 (3) The department is vested with the authority to enforce
91 this chapter. The department may conduct investigations or
92 request other state, county or local officials to conduct
93 investigations and promulgate such rules and regulations as may be
94 necessary for the enforcement of this chapter. The department may
95 establish monetary fines and collect such fines as necessary for
96 the enforcement of such rules and regulations. All fines
97 collected shall be deposited in the Special Insurance Department
98 Fund for the operation of that agency.

99 (4) Each license issued hereunder shall expire annually on
100 the last day of May, unless revoked or suspended prior thereto by
101 the department, or upon notice served upon the commissioner by the
102 insurer that the authority of a limited surety agent to act for or
103 in behalf of such insurer had been terminated, or upon notice
104 served upon the commissioner by a professional bail agent that the
105 employment of a soliciting bail agent or bail enforcement agent
106 had been terminated by such professional bail agent.

107 (5) The department shall prepare and deliver to each
108 licensee a certificate showing the name, address and
109 classification of such licensee, and shall certify that the person
110 is a licensed professional bail agent, being either a personal
111 surety agent or a limited surety agent, a soliciting bail agent or
112 a bail enforcement agent. In addition, the certificate, if for a

113 soliciting bail agent or bail enforcement agent, shall show the
114 name of the professional bail agent and any other information as
115 the commissioner deems proper.

116 (6) The commissioner, after a hearing under Section
117 83-39-17, may refuse to issue a privilege license for a soliciting
118 bail agent to change from one (1) professional bail agent to
119 another if he owes any premium or debt to the professional bail
120 agent with whom he is currently licensed.

121 (7) From and after May 1, 2000, prior to the issuance of any
122 professional bail agent, soliciting bail agent or bail enforcement
123 agent license, the applicant shall submit proof of completion of
124 eight (8) hours of prelicensing education approved by the
125 department and the Professional Bail Agents Association of
126 Mississippi, Inc., and conducted by the Mississippi Judicial
127 College or any institution of higher learning or community
128 college. An applicant may work as an agent without the
129 prelicensing education requirement but must complete such
130 education at the first available offering.

131 (8) From and after May 1, 2000, prior to the renewal of any
132 professional bail agent, soliciting bail agent or bail enforcement
133 agent license, the applicant shall submit proof of completion of
134 eight (8) hours of continuing education approved by the department
135 and the Professional Bail Agents Association of Mississippi, Inc.,
136 and provided by the Mississippi Judicial College or any
137 institution of higher learning or community college.

138 SECTION 3. Section 83-39-5, Mississippi Code of 1972, is
139 amended as follows:

140 83-39-5. Any person desiring to engage in the business of

141 professional bail agent, soliciting bail agent, or bail
142 enforcement agent in this state shall apply to the department for
143 a license on forms prepared and furnished by the department. The
144 application for a license, or renewal thereof, shall set forth,
145 under oath, the following information:

146 (a) Full name, age, date of birth, Social Security
147 number, residence during the previous five (5) years, occupation
148 and business address of the applicant.

149 (b) Spouse's full name, occupation and business
150 address.

151 (c) Other relatives' full names, occupations and
152 business addresses if a law enforcement official or if an employee
153 of a law enforcement official or a law enforcement entity.

154 (d) A photograph of the applicant and a full set of
155 fingerprints.

156 (e) A statement that he is not licensed to practice law
157 in the State of Mississippi or any other state and that no
158 attorney or any convicted felon has any interest in his
159 application, either directly or indirectly.

160 (f) Any other information as may be required by this
161 chapter or by the department.

162 (g) In the case of a professional bail agent, a
163 statement that he will actively engage in the bail bond business.

164 (h) In the case of a soliciting bail agent, a statement
165 that he will be employed or used by only one (1) professional bail
166 agent and that the professional bail agent will supervise his work
167 and be responsible for his conduct in his work. A professional
168 bail agent shall sign the application of each soliciting bail

169 agent employed or used by him.

170 Each application or filing made under this section shall
171 include the Social Security number(s) of the applicant in
172 accordance with Section 93-11-64, Mississippi Code of 1972.

173 SECTION 4. Section 83-39-9, Mississippi Code of 1972, is
174 amended as follows:

175 83-39-9. The department upon receipt of the license
176 application, the required fee, and proof of good moral character
177 and, in the case of a professional bail agent, an approved
178 qualification bond in the required amount, shall issue to the
179 applicant a license to do business as a professional bail agent,
180 soliciting bail agent or bail enforcement agent as the case may
181 be.

182 No licensed professional bail agent shall have in his employ
183 in the bail bond business any person who could not qualify for a
184 license under this chapter, including a relative of a law
185 enforcement official or a relative of an employee of a law
186 enforcement official or a law enforcement entity, nor shall any
187 licensed professional bail agent have as a partner or associate in
188 such business any person who could not so qualify, including a
189 relative of a law enforcement official or a relative of an
190 employee of a law enforcement official or a law enforcement
191 entity.

192 SECTION 5. Section 83-39-15, Mississippi Code of 1972, is
193 amended as follows:

194 83-39-15. (1) The department may deny, suspend, revoke or
195 refuse to renew, as may be appropriate, the license of any person
196 engaged in the business of professional bail agent, soliciting

197 bail agent, or bail enforcement agent for any of the following
198 reasons:

199 (a) Any cause for which the issuance of the license
200 would have been refused had it then existed and been known to the
201 department.

202 (b) Failure to post a qualification bond in the
203 required amount with the department during the period the person
204 is engaged in the business within this state or, if the bond has
205 been posted, the forfeiture or cancellation of the bond.

206 (c) Material misstatement, misrepresentation or fraud
207 in obtaining the license.

208 (d) Willful failure to comply with, or willful
209 violation of, any provision of this chapter or of any proper
210 order, rule or regulation of the department or any court of this
211 state.

212 (e) Conviction of felony or crime involving moral
213 turpitude.

214 (f) Default in payment to the court should any bond
215 issued by such bail agent be forfeited by order of the court.

216 (g) Being engaged as a law enforcement or judicial
217 official or attorney or being a relative of a law enforcement
218 official or a relative of an employee of a law enforcement
219 official or a law enforcement entity.

220 (2) In addition to the grounds specified in subsection (1)
221 of this section, the department shall be authorized to suspend the
222 license, registration or permit of any person for being out of
223 compliance with an order for support, as defined in Section
224 93-11-153. The procedure for suspension of a license,

225 registration or permit for being out of compliance with an order
226 for support, and the procedure for the reissuance or reinstatement
227 of a license, registration or permit suspended for that purpose,
228 and the payment of any fees for the reissuance or reinstatement of
229 a license, registration or permit suspended for that purpose,
230 shall be governed by Section 93-11-157 or 93-11-163, as the case
231 may be. If there is any conflict between any provision of Section
232 93-11-157 or 93-11-163 and any provision of this chapter, the
233 provisions of Section 93-11-157 or 93-11-163, as the case may be,
234 shall control.

235 SECTION 6. This act shall take effect and be in force from
236 and after July 1, 2000.