

By: Senator(s) White

To: Judiciary, Division B

SENATE BILL NO. 2756

1 AN ACT TO AMEND SECTION 99-5-1, MISSISSIPPI CODE OF 1972, TO
2 REVISE FORM REQUIREMENTS FOR BAIL; TO AMEND SECTION 99-5-9,
3 MISSISSIPPI CODE OF 1972, TO REVISE CASH BAIL BOND; TO CREATE
4 SECTION 99-5-39, MISSISSIPPI CODE OF 1972, TO AUTHORIZE AN
5 APPEARANCE BOND AS A CONDITION OF ANY PROBATION, COMMUNITY
6 CONTROL, PAYMENT PLAN FOR ANY FINE IMPOSED OR ANY OTHER COURT
7 ORDERED SUPERVISION; TO PROVIDE FOR NOTICE TO THE BAIL AGENT; TO
8 PROVIDE FOR THE CONDITIONS OF FORFEITURE OF THE BOND; AND FOR
9 RELATED PURPOSES.

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

11 **SECTION 1.** Section 99-5-1, Mississippi Code of 1972, is
12 amended as follows:

13 99-5-1. Bail may be taken in the following form, viz.:

14 "State of Mississippi,
15 _____ County.

16 We _____, principal, and _____ and
17 _____, sureties, agree to pay the State of Mississippi
18 _____ Dollars, unless the said _____ shall
19 appear at the next term of the Circuit Court of _____
20 County, and there remain from day to day and term to term until
21 discharged by law, to answer a charge of _____.

22 Signed _____
23 _____

24 Approved _____.
25 _____."

26 When the bail is for appearance before any committing court
27 or a judge, the form may be varied to suit the condition.

28 When a bond is taken from a professional bail agent, the
29 following must be preprinted or stamped clearly and legibly on the
30 bond form: full name of the professional bail agent, Department

31 of Insurance license number, full and correct legal address of the
32 professional bail agent and complete phone number of the
33 professional bail agent. In addition, if the bond is posted by a
34 limited surety professional bail agent, the name of the insurer,
35 the legal address of the insurer on file with the department and
36 phone number of the insurer must be preprinted or stamped, and a
37 true and correct copy of an individual's power of attorney
38 authorizing the agent to post such bond shall be attached.

39 If the bond is taken from a soliciting bail agent, the full
40 name of the soliciting bail agent and the license number of such
41 agent must be preprinted or stamped clearly and legibly along with
42 all information required for a professional bail agent and a true
43 and correct copy of an individual's power of attorney authorizing
44 such soliciting bail agent to sign the name of the professional
45 bail agent.

46 Any professional bail agent and/or soliciting bail agents who
47 issue a bail bond that does not contain this required information
48 may have their license suspended up to six (6) months and/or be
49 fined not more than One Thousand Dollars (\$1,000.00) for the first
50 offense, may have their license suspended up to one (1) year
51 and/or be fined not more than Five Thousand Dollars (\$5,000.00)
52 for the second offense and shall have their license permanently
53 revoked if they commit a third offense.

54 **SECTION 2.** Section 99-5-9, Mississippi Code of 1972, is
55 amended as follows:

56 99-5-9. (1) In addition to any type of bail allowed by
57 statute, any committing court, in its discretion, may allow any
58 defendant, to whom bail is allowable, to deposit cash as bail bond
59 in lieu of a surety or property bail bond, by depositing such cash
60 sum as the court may direct with the sheriff or officer having
61 custody of defendant, who shall receipt therefor and who shall
62 forthwith deliver the said monies to the county treasurer, who
63 shall receipt therefor in duplicate. The sheriff, or other

64 officer, upon receipt of the county treasurer, shall forthwith
65 deliver one (1) copy of such receipt to the committing court who
66 shall then order the release of such defendant.

67 (2) The order of the court shall set forth the conditions
68 upon which such cash bond is allowed and shall be determined to be
69 the agreement upon which the bailee has agreed.

70 (3) The sums received by the county treasurer shall be
71 deposited by him in a special fund to be known as "Cash Bail
72 Fund," and shall be received by him subject to the terms and
73 conditions of the order of the court.

74 (4) If the committing court authorizes bail by a cash
75 deposit under subsection (1) of this section, but anyone
76 authorized to release a criminal defendant allows the deposit of
77 an amount less than the full amount of the bail ordered by the
78 court, the defendant may post bail by a professional bail agent in
79 an amount equal to one-fourth (1/4) of the full amount fixed under
80 subsection (1) or the amount of the actual deposit whichever is
81 greater.

82 **SECTION 3.** The following shall be codified as Section
83 99-5-39, Mississippi Code of 1972:

84 99-5-39. (1) As a condition of any probation, community
85 control, payment plan for any fine imposed or any other court
86 ordered supervision, the court may order the posting of a bond to
87 secure the appearance of the defendant at any subsequent court
88 proceeding or to otherwise enforce the orders of the court. The
89 appearance bond shall be filed by a duly licensed professional
90 bail agent with the court or with the sheriff who shall provide a
91 copy to the clerk of court.

92 (2) The court may issue an order sua sponte or upon notice
93 by the clerk or the probation officer that the person has violated
94 the terms of probation, community control, court ordered
95 supervision or other applicable court order to produce the
96 defendant. Upon seventy-two (72) hours' notice by the court or

97 the clerk of court, the bail agent shall surrender the defendant
98 in open court or to the sheriff. If the bail agent fails to
99 produce the defendant in court or to the sheriff at the time
100 noticed by the court or the clerk of court, the bond shall be
101 forfeited according to the procedures set forth in Section
102 99-5-25. The defendant's failure to appear shall be the sole
103 grounds for forfeiture of the appearance bond.

104 (3) The provisions of Sections 83-39-1 et seq. and 99-5-1 et
105 seq. shall govern the relationship between the parties except
106 where they are inconsistent with this section.

107 **SECTION 4.** This act shall take effect and be in force from
108 and after July 1, 2007.