

By: Representative Dixon

To: Judiciary B

HOUSE BILL NO. 1045

1 AN ACT TO PROVIDE A SCHEDULE OF BAIL FOR BAILABLE CRIMINAL
2 OFFENSES; TO AMEND SECTIONS 99-5-5, 99-5-13 AND 99-5-23,
3 MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** (1) Any defendant charged with an offense
6 bailable as a matter of right may be released pending or during
7 trial on his or her personal recognizance or on an appearance bond
8 unless the court determines that such a release will not
9 reasonably assure the defendant's appearance as required, or that
10 the defendant's being at large will pose a real and present danger
11 to others or to the public at large. If such a determination is
12 made, the court may impose the least onerous condition or
13 conditions contained that will reasonably assure the defendant's
14 appearance or that will eliminate or minimize the risk of harm to
15 others or to the public at large. In making such a determination,
16 the court may take into account the following:

17 (a) The age, background and family ties, relationships
18 and circumstances of the defendant.



19 (b) The defendant's reputation, character, and health.

20 (c) The defendant's prior criminal record, including
21 prior releases on recognizance or on secured appearance bonds, and
22 other pending cases.

23 (d) The identity of responsible members of the
24 community who will vouch for the defendant's reliability.

25 (e) Violence or lack of violence in the alleged
26 commission of the offense.

27 (f) The nature of the offense charged, the apparent
28 probability of conviction, and the likely sentence, insofar as
29 these factors are relevant to the risk of nonappearance.

30 (g) The type of weapon used, e.g., knife, pistol,
31 shotgun, sawed-off shotgun.

32 (h) Threats made against victims and/or witnesses.

33 (i) The value of property taken during the alleged
34 commission of the offense.

35 (j) Whether the property allegedly taken was recovered
36 or not; damage or lack of damage to property allegedly taken.

37 (k) Residence of the defendant, including consideration
38 of real property ownership, and length of residence in his or her
39 place of domicile.

40 (l) In cases where the defendant is charged with a drug
41 offense, evidence of selling or pusher activity should indicate a
42 substantial increase in the amount of bond.



43 (m) Consideration of the defendant's employment status
44 and history, the location of defendant's employment, e.g., whether
45 employed in the county where the alleged offense occurred, and the
46 defendant's financial condition.

47 (n) Any enhancement statutes related to the charged
48 offense.

49 (2) The following schedule is established as a general guide
50 for courts in setting bail for persons charged with bailable
51 offenses. Except where release is required in the minimum
52 scheduled amount pursuant to the Rules of Criminal Procedure,
53 courts should exercise discretion in setting bail above or below
54 the scheduled amounts.

55 **BAIL SCHEDULE**

56 Recommended Range

57	Capital offenses.....	No Bail Allowed
58	Murder.....	\$100,000.00 to No Bail Allowed
59	Felony offenses.....	\$ 2,500.00 to \$ 60,000.00
60	Drug manufacturing and trafficking	\$5,000.00 to \$100,000.00
61	Misdemeanors.....	\$ 300.00 to \$ 6,000.00
62	Municipal Ordinance Violations.....	\$ 300.00 to \$ 1,000.00
63	Traffic Related Offenses:	
64	DUI.....	\$1,000.00 to \$ 7,500.00
65	Reckless driving.....	\$ 100.00 to \$ 300.00
66	Speeding.....	\$ 300.00 to \$ 500.00
67	Other traffic violation.....	\$ 300.00 to \$ 500.00



68 (3) (a) A defendant who has been convicted of an offense
69 and who for that offense has been sentenced to punishment by
70 death, by life imprisonment, or by imprisonment for a term in
71 excess of twenty (20) years, shall not be released.

72 (b) Any defendant who has been convicted of an offense
73 for which the defendant has been sentenced to a term of
74 imprisonment for twenty (20) years or less may be released on a
75 secured appearance bond or on the defendant's personal
76 recognizance.

77 (i) Upon application for release made concurrently
78 with the filing of a notice of appeal, or

79 (ii) If the application for probation is made,
80 upon application for release made at any time before probation has
81 been granted or denied.

82 (4) Release shall be denied after conviction and sentence if
83 the trial court has reason to believe that an appearance bond or
84 conditions of release will not reasonably assure that the
85 defendant will not flee, or that the defendant's being at large
86 poses a real and present danger of harm to any other person or to
87 the public at large, or if at the time the sentence was rendered,
88 the defendant filed a notice of appeal and elected to waive
89 release and to begin serving the sentence.

90 **SECTION 2.** Section 99-5-5, Mississippi Code of 1972, is
91 amended as follows:



92 99-5-5. All bonds and recognizances taken for the appearance
93 of any party, either as defendant, prosecutor, or witness in any
94 criminal proceeding or matter, shall be made payable to the state,
95 and shall have the effect to bind the accused and his sureties on
96 the bond or recognizance until the principal shall be discharged
97 by due course of law, and shall be in full force, from term to
98 term, for a period of three (3) years, except that a bond
99 returnable to the Supreme Court shall be in full force for a
100 period of five (5) years. Such bond or recognizance shall comply
101 with the provisions of Section 1 of this act. If it is necessary
102 to renew a bond, it shall be renewed without additional premium.
103 At the end of the applicable period, a bond or recognizance that
104 is not renewed shall expire and shall be uncollectible unless the
105 collection process was started on or before the expiration date of
106 such bond or recognizance. Any bond or recognizance taken prior
107 to July 1, 1996, shall expire on July 1, 1999. If a defendant is
108 charged with multiple counts in one (1) warrant only one (1) bond
109 shall be taken.

110 **SECTION 3.** Section 99-5-13, Mississippi Code of 1972, is
111 amended as follows:

112 99-5-13. When it shall appear to the court before which any
113 person charged with a criminal offense has given bail to appear
114 that such bail is insufficient in any respect, the court may order
115 the issuance of process for the arrest of such person, and may
116 require him to give bail as may be ordered and in compliance with



117 Section 1 of this act, and, in default thereof, may commit him to
118 jail as in other cases.

119 **SECTION 4.** Section 99-5-23, Mississippi Code of 1972, is
120 amended as follows:

121 99-5-23. All bonds, recognizances, or acknowledgments of
122 indebtedness, conditioned for the appearance of any party before
123 any court or officer, in any state case or criminal proceeding,
124 which shall have the effect to free such party from jail or legal
125 custody of any sort, shall be valid and bind the party and
126 sureties, according to the condition of such bond, recognizance,
127 or acknowledgment, whether it was taken by the proper officer or
128 under circumstances authorized by law or not, or whether the
129 officer's return identify it or not. Such bonds, recognizances or
130 acknowledgments shall comply with Section 1 of this act.

131 It shall not be an objection to any bail-bond or recognizance
132 that it is in the form of an acknowledgment before a court or
133 officer and is without the signature of any person, or is without
134 the endorsement of approval by any officer; but all persons who,
135 by their acknowledgment before any officer of liability to pay a
136 sum of money to the state if some person shall not appear before
137 some court or officer in a criminal prosecution, procure the
138 discharge from custody of such person, shall be bound accordingly
139 upon the recognizance. An obligation signed by a person to obtain
140 the discharge from custody of another shall not be invalid, if it
141 have that effect, because it does not have indorsed on it the



142 approval of any officer, or because the taking thereof be not
143 recited in the return of the officer.

144 **SECTION 5.** This act shall take effect and be in force from
145 and after July 1, 2013.

