

By: Representative Upshaw

To: Judiciary B

HOUSE BILL NO. 1501

1 AN ACT TO AMEND SECTIONS 83-39-3 AND 83-39-5, MISSISSIPPI
2 CODE OF 1972, TO REVISE LICENSING REQUIREMENTS FOR BAIL AGENTS TO
3 INCLUDE CRIMINAL BACKGROUND CHECKS; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 83-39-3, Mississippi Code of 1972, is
6 amended as follows:

7 83-39-3. (1) No person shall act in the capacity of
8 professional bail agent, soliciting bail agent or bail enforcement
9 agent, as defined in Section 83-39-1, or perform any of the
10 functions, duties or powers of the same unless that person shall
11 be qualified and licensed as provided in this chapter. The terms
12 of this chapter shall not apply to any automobile club or
13 association, financial institution, insurance company or other
14 organization or association or their employees who execute bail
15 bonds on violations arising out of the use of a motor vehicle by
16 their members, policyholders or borrowers when bail bond is not
17 the principal benefit of membership, the policy of insurance or of
18 a loan to such member, policyholder or borrower.

19 (2) (a) No license shall be issued except in compliance
20 with this chapter, and none shall be issued except to an
21 individual. No firm, partnership, association or corporation, as
22 such, shall be so licensed. No professional bail agent shall
23 operate under more than one (1) trade name. A soliciting bail
24 agent and bail enforcement agent shall operate only under the
25 professional bail agent's name. A soliciting bail agent shall be
26 employed by only one (1) professional bail agent. No person who
27 has ever been convicted of a felony or any crime involving moral

28 turpitude, or who has not been a resident of this state for at
29 least one (1) year, unless presently licensed for bail bonds, or
30 who is under twenty-one (21) years of age, shall be issued a
31 license hereunder. No person engaged as a law enforcement or
32 judicial official or attorney shall be licensed hereunder.

33 (b) (i) No person who is a spouse of: 1. a county or
34 municipal law enforcement official; 2. an employee of a county or
35 municipal law enforcement official; or 3. an employee of a law
36 enforcement entity shall write a bond for a person arrested by the
37 spouse or the law enforcement entity which the person's spouse
38 serves as a law enforcement official or employee; violation of
39 this prohibition shall result in license revocation.

40 (ii) No person licensed under this chapter shall
41 act as a personal surety agent in the writing of bail during a
42 period he or she is licensed as a limited surety agent, as defined
43 herein.

44 (iii) No person licensed under this chapter shall
45 give legal advice or a legal opinion in any form.

46 (3) (a) The department is vested with the authority to
47 enforce this chapter. The department may conduct investigations
48 or request other state, county or local officials to conduct
49 investigations and promulgate such rules and regulations as may be
50 necessary for the enforcement of this chapter. The department may
51 establish monetary fines and collect such fines as necessary for
52 the enforcement of such rules and regulations. All fines
53 collected shall be deposited in the Special Insurance Department
54 Fund for the operation of that agency.

55 (b) In order to assist the department in determining an
56 applicant's suitability for a license under this chapter, the
57 department shall forward the fingerprints submitted with the
58 application to the Department of Public Safety for use by that
59 agency in conducting a criminal history record check. If no
60 disqualifying record is identified at the state level, the

61 fingerprints shall be forwarded by the Department of Public Safety
62 to the Federal Bureau of Investigation for a national criminal
63 history record check. Fees related to the criminal history record
64 check shall be paid by the applicant to the commissioner and the
65 monies from such fees shall be deposited in the special fund in
66 the State Treasury designated as the "Insurance Department Fund."

67 (4) Each license issued hereunder shall expire annually on
68 the last day of May, unless revoked or suspended prior thereto by
69 the department, or upon notice served upon the commissioner by the
70 insurer that the authority of a limited surety agent to act for or
71 in behalf of such insurer had been terminated, or upon notice
72 served upon the commissioner by a professional bail agent that the
73 employment of a soliciting bail agent or bail enforcement agent
74 had been terminated by such professional bail agent.

75 (5) The department shall prepare and deliver to each
76 licensee a certificate showing the name, address and
77 classification of such licensee, and shall certify that the person
78 is a licensed professional bail agent, being either a personal
79 surety agent or a limited surety agent, a soliciting bail agent or
80 a bail enforcement agent. In addition, the certificate, if for a
81 soliciting bail agent or bail enforcement agent, shall show the
82 name of the professional bail agent and any other information as
83 the commissioner deems proper.

84 (6) The commissioner, after a hearing under Section
85 83-39-17, may refuse to issue a privilege license for a soliciting
86 bail agent to change from one professional bail agent to another
87 if he owes any premium or debt to the professional bail agent with
88 whom he is currently licensed.

89 (7) From and after May 1, 2000, prior to the issuance of any
90 professional bail agent, soliciting bail agent or bail enforcement
91 agent license, the applicant shall submit proof of completion of
92 eight (8) hours of prelicensing education approved by the
93 department and the Professional Bail Agents Association of

94 Mississippi, Inc., and conducted by the Mississippi Judicial
95 College or any institution of higher learning or community college
96 located within the State of Mississippi.

97 (8) From and after May 1, 2000, prior to the renewal of any
98 professional bail agent, soliciting bail agent or bail enforcement
99 agent license, the applicant shall submit proof of completion of
100 eight (8) hours of continuing education approved by the department
101 and the Professional Bail Agents Association of Mississippi, Inc.,
102 and provided by the Mississippi Judicial College or any
103 institution of higher learning or community college located within
104 the State of Mississippi.

105 **SECTION 2.** Section 83-39-5, Mississippi Code of 1972, is
106 amended as follows:

107 83-39-5. Any person desiring to engage in the business of
108 professional bail agent, soliciting bail agent, or bail
109 enforcement agent in this state shall apply to the department for
110 a license on forms prepared and furnished by the department. The
111 application for a license, or renewal thereof, shall set forth,
112 under oath, the following information:

113 (a) Full name, age, date of birth, social security
114 number, residence during the previous five (5) years, occupation
115 and business address of the applicant.

116 (b) Spouse's full name, occupation and business
117 address.

118 (c) A photograph of the applicant and a full set of
119 fingerprints for the initial application only. A photograph of
120 the applicant and a full set of fingerprints are not required for
121 renewal except when requested by the department.

122 (d) A report from the sheriff of the applicant's county
123 of residence or the Department of Public Safety that the applicant
124 has no felony record nor any misdemeanor involving moral turpitude
125 on file with the United States Federal Bureau of Investigation for

126 the initial application only. The report is not required for
127 renewal except when requested by the department.

128 (e) Proof of having successfully completed prelicense
129 or continuing education required under Section 83-39-1.

130 (f) A statement that he is not licensed to practice law
131 in the State of Mississippi or any other state and that no
132 attorney or any convicted felon has any interest in his
133 application, either directly or indirectly.

134 (g) Any other information as may be required by this
135 chapter or by the department.

136 (h) In the case of a professional bail agent, a
137 statement that he will actively engage in the bail bond business.

138 (i) In the case of a soliciting bail agent, a statement
139 that he will be employed or used by only one (1) professional bail
140 agent and that the professional bail agent will supervise his work
141 and be responsible for his conduct in his work. A professional
142 bail agent shall sign the application of each soliciting bail
143 agent employed or used by him.

144 Each application or filing made under this section shall
145 include the social security number(s) of the applicant in
146 accordance with Section 93-11-64, Mississippi Code of 1972.

147 **SECTION 3.** This act shall take effect and be in force from
148 and after its passage.