

An Act

ENROLLED SENATE
BILL NO. 798

By: Coleman of the Senate

and

Moore of the House

An Act relating to bondsmen; amending 59 O.S. 2021, Section 1327, as amended by Section 2, Chapter 170, O.S.L. 2022 (59 O.S. Supp. 2022, Section 1327), which relates to exoneration of bond; allowing for exoneration of bond under certain condition; and providing an effective date.

SUBJECT: Bond exoneration

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2021, Section 1327, as amended by Section 2, Chapter 170, O.S.L. 2022 (59 O.S. Supp. 2022, Section 1327), is amended to read as follows:

Section 1327. A. At any time before there has been a breach of the undertaking in any type of bail provided herein, the surety or bondsman or a licensed bail enforcer pursuant to a client contract authorized by the Bail Enforcement and Licensing Act may surrender the defendant, or the defendant may surrender himself or herself, to the official to whose custody the defendant was committed at the time bail was taken, or to the official into whose custody the defendant would have been given had he or she been committed. The defendant may be surrendered without the return of premium for the bond if he or she has been guilty of nonpayment of premium, changes address without notifying his or her bondsman, conceals himself or herself, leaves the jurisdiction of the court without the permission of his or her bondsman, or violates his or her contract with the bondsman in any way that does harm to the bondsman, or the surety,

or violates his or her obligation to the court. When a bondsman or surety, or a licensed bail enforcer, surrenders a defendant pursuant to this subsection, the bondsman or surety shall file written notification of the surrender. After surrender, and upon filing of written notification of the surrender with the court clerk, the bond shall be exonerated and the clerk shall enter a minute in the case exonerating the bond.

B. 1. If the defendant has been placed in custody of another jurisdiction, the district attorney shall direct a hold order to the official, judge or law enforcement agency where the defendant is in custody. All reasonable expenses accrued in returning the defendant to the original court shall be borne by the bondsman who posted the bond with that court; provided, however, except for instances whereby the defendant is transported by a contracted transport company, reasonable expenses shall mean the actual miles traveled in transporting the defendant at a rate equal to the current Internal Revenue Service standard mileage rate. Upon application, the bond in the original court shall be exonerated when the hold order is placed and upon proof of payment of expenses by the bondsman.

2. Except as provided for in paragraph 3 of this subsection, the premium for a bail bond shall be considered earned by the bondsman or the insurer, as applicable, when the defendant on the bond is released from custody and is not incarcerated in any capacity. If the bond premium has not been earned pursuant to the terms of this section, the payor of the premium or the depositor of any collateral, as applicable, may request the return of the premium or collateral given to the bondsman for the bond. The bondsman shall return any premium and collateral without delay. If a bondsman returns the premium to the payor pursuant to this section, he or she may charge a usual, customary, and reasonable fee for his or her services provided in the transaction.

3. The premium for a bail bond shall be considered earned by the bondsman, regardless of whether the defendant on the bond is released from custody, if the bondsman and the payor of the bond premium have agreed in writing that the purpose of the bond is to secure the transfer of the defendant to another jurisdiction and the defendant is in fact transferred to that jurisdiction.

C. If the defendant has been arrested on new charges and is in the custody of the same jurisdiction in which the bondsman or surety has posted an appearance bond or bonds for the defendant, and the bond or bonds have not been exonerated, and certified copies of bonds are not reasonably available, the bondsman or surety may recommit the defendant to be held in custody on the charges for which the bondsman or surety has previously posted appearance bonds thereon, in accordance with the following procedure:

1. On a Recommitment of Defendant by Bondsman form approved by the Administrative Office of the Courts, the bondsman or surety shall personally affix his or her signature to an affidavit attesting to the following:

- a. the defendant is presently in the custody of the jurisdiction in which the bondsman or surety has posted a bond or bonds,
- b. the case number, if any, assigned to each bond,
- c. that the bond or bonds have not been exonerated, and
- d. the specific charges and bond amount or amounts;

2. The bondsman or surety shall present the Recommitment of Defendant by Bondsman form to the official in whose custody the defendant is being held, and the official shall detain the defendant in his or her custody, thereon, as upon a commitment, and by a certificate in writing acknowledging the surrender; and

3. When a bondsman or surety recommits a defendant pursuant to this subsection, the bondsman or surety shall file a written notification thereof to the court, and after such notification, the bond or bonds shall be exonerated, and the clerk shall enter a minute in the case exonerating the bond or bonds.

D. 1. When a defendant does appear before the court as required by law and enters a plea of guilty or nolo contendere, is sentenced or a deferred sentence is granted as provided for in Section 991c of Title 22 of the Oklahoma Statutes, or deferred prosecution is granted as provided by law, in such event the

undertaking and bondsman and insurer shall be exonerated from further liability.

2. A bond posted for a petition for revocation of a suspended sentence, a petition for acceleration of a deferred sentence or any violation of a probationary term shall be exonerated by operation of law when:

- a. the defendant has confessed, stipulated or otherwise agreed to the factual basis of the violation of probation,
- b. the suspended sentence is revoked in whole or part,
- c. the deferred sentence is accelerated in whole or part, or
- d. any additional sanction is imposed by the court.

E. The bond shall be exonerated by operation of law in any case in which the defendant has been arrested on new charges or on any warrant in the same jurisdiction in which the bondsman or insurer has posted the appearance bond or bonds for the defendant, and the defendant has been subsequently released on his or her own personal recognizance or a pretrial release has been authorized by the court.

F. The bond shall be exonerated by operation of law in any case in which the defendant has been arrested and there is an added charge to a case that would result in a higher fine or longer term of sentence if convicted, or an amendment to a charge that would result in a higher fine or longer term of sentence if convicted; provided, however, any premium paid by the defendant to the bondsman or insurer from the original charge shall be at the same premium rate and shall be credited to the defendant if the same bondsman or insurer posts the appearance bond or bonds on the added or amended charge.

G. For purposes of this section, a "usual, customary, and reasonable fee" means a charge to the payor that is based on the amount of time spent by the bondsman or his or her employees researching, drafting, and executing the bail bond. Such fee shall be detailed in a written document provided to the payor.

H. The court shall not issue an order modifying the terms of a previously set bond unless the order has also been signed by the bail bondsman, bail bondsman surety, or both acknowledging the changes made to the bond prior to the defendant's release. Failure to provide this notice shall exonerate the bond by operation of law.

SECTION 2. This act shall become effective November 1, 2023.

Passed the Senate the 22nd day of March, 2023.

Presiding Officer of the Senate

Passed the House of Representatives the 20th day of April, 2023.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____