

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 ENGROSSED SENATE
5 BILL NO. 798

 By: Coleman of the Senate
 and
 Moore of the House

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

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

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

18 Section 1327. A. At any time before there has been a breach of
19 the undertaking in any type of bail provided herein, the surety or
20 bondsmen or a licensed bail enforcer pursuant to a client contract
21 authorized by the Bail Enforcement and Licensing Act may surrender
22 the defendant, or the defendant may surrender himself or herself, to
23 the official to whose custody the defendant was committed at the
24 time bail was taken, or to the official into whose custody the

1 defendant would have been given had he or she been committed. The
2 defendant may be surrendered without the return of premium for the
3 bond if he or she has been guilty of nonpayment of premium, changes
4 address without notifying his or her bondsman, conceals himself or
5 herself, leaves the jurisdiction of the court without the permission
6 of his or her bondsman, or violates his or her contract with the
7 bondsman in any way that does harm to the bondsman, or the surety,
8 or violates his or her obligation to the court. When a bondsman or
9 surety, or a licensed bail enforcer, surrenders a defendant pursuant
10 to this subsection, the bondsman or surety shall file written
11 notification of the surrender. After surrender, and upon filing of
12 written notification of the surrender with the court clerk, the bond
13 shall be exonerated and the clerk shall enter a minute in the case
14 exonerating the bond.

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

1 in the original court shall be exonerated when the hold order is
2 placed and upon proof of payment of expenses by the bondsman.

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

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

21 C. If the defendant has been arrested on new charges and is in
22 the custody of the same jurisdiction in which the bondsman or surety
23 has posted an appearance bond or bonds for the defendant, and the
24 bond or bonds have not been exonerated, and certified copies of

1 bonds are not reasonably available, the bondsman or surety may
2 recommit the defendant to be held in custody on the charges for
3 which the bondsman or surety has previously posted appearance bonds
4 thereon, in accordance with the following procedure:

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

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

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

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

1 D. 1. When a defendant does appear before the court as
2 required by law and enters a plea of guilty or nolo contendere, is
3 sentenced or a deferred sentence is granted as provided for in
4 Section 991c of Title 22 of the Oklahoma Statutes, or deferred
5 prosecution is granted as provided by law, in such event the
6 undertaking and bondsman and insurer shall be exonerated from
7 further liability.

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

12 a. the defendant has confessed, stipulated or otherwise
13 agreed to the factual basis of the violation of
14 probation,

15 b. the suspended sentence is revoked in whole or part,

16 c. the deferred sentence is accelerated in whole or part,
17 or

18 d. any additional sanction is imposed by the court.

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

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

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

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

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

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23 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 04/11/2023 - DO
24 PASS.