

1 **SENATE FLOOR VERSION**

2 February 27, 2023

3 SENATE BILL NO. 798

By: Coleman

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

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

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

16 Section 1327. A. At any time before there has been a breach of
17 the undertaking in any type of bail provided herein, the surety or
18 bondsman or a licensed bail enforcer pursuant to a client contract
19 authorized by the Bail Enforcement and Licensing Act may surrender
20 the defendant, or the defendant may surrender himself or herself, to
21 the official to whose custody the defendant was committed at the
22 time bail was taken, or to the official into whose custody the
23 defendant would have been given had he or she been committed. The
24 defendant may be surrendered without the return of premium for the
bond if he or she has been guilty of nonpayment of premium, changes

1 address without notifying his or her bondsman, conceals himself or
2 herself, leaves the jurisdiction of the court without the permission
3 of his or her bondsman, or violates his or her contract with the
4 bondsman in any way that does harm to the bondsman, or the surety,
5 or violates his or her obligation to the court. When a bondsman or
6 surety, or a licensed bail enforcer, surrenders a defendant pursuant
7 to this subsection, the bondsman or surety shall file written
8 notification of the surrender. After surrender, and upon filing of
9 written notification of the surrender with the court clerk, the bond
10 shall be exonerated and the clerk shall enter a minute in the case
11 exonerating the bond.

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

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

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

19 C. If the defendant has been arrested on new charges and is in
20 the custody of the same jurisdiction in which the bondsman or surety
21 has posted an appearance bond or bonds for the defendant, and the
22 bond or bonds have not been exonerated, and certified copies of
23 bonds are not reasonably available, the bondsman or surety may
24 recommit the defendant to be held in custody on the charges for

1 which the bondsman or surety has previously posted appearance bonds
2 thereon, in accordance with the following procedure:

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

7 a. the defendant is presently in the custody of the
8 jurisdiction in which the bondsman or surety has
9 posted a bond or bonds,

10 b. the case number, if any, assigned to each bond,

11 c. that the bond or bonds have not been exonerated, and

12 d. the specific charges and bond amount or amounts;

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

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

23 D. 1. When a defendant does appear before the court as
24 required by law and enters a plea of guilty or nolo contendere, is

1 sentenced or a deferred sentence is granted as provided for in
2 Section 991c of Title 22 of the Oklahoma Statutes, or deferred
3 prosecution is granted as provided by law, in such event the
4 undertaking and bondsman and insurer shall be exonerated from
5 further liability.

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

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

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

14 c. the deferred sentence is accelerated in whole or part,
15 or

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

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

23 F. The bond shall be exonerated by operation of law in any case
24 in which the defendant has been arrested and there is an added

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

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

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
21 February 27, 2023 - DO PASS

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