

SB 772

THE STATE SENATE
Monday, February 21, 2005

Senate Bill No. 772

SENATE BILL NO. 772 - By: CRAIN of the Senate and TERRILL of the House.

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 1327, as last amended by Section 1, Chapter 66, O.S.L. 2003, 1328 and 1329 (59 O.S. Supp. 2004, Section 1327), which relate to bail bondsmen; modifying procedures for surrender; providing procedures for a bondsman or surety to recommit a defendant arrested on new charges in the same jurisdiction in which appearance bonds have been previously posted; providing procedures for a bondsman or surety to recommit a defendant on the charges for which the bondsman or surety has previously posted appearance bonds if certain certified copies of bonds are not reasonably available; adding method of surrender; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 1327, as last amended by Section 1, Chapter 66, O.S.L. 2003 (59 O.S. Supp. 2004, 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 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

1 premium, changes address without notifying his or her bondsman,
2 conceals himself or herself, leaves the jurisdiction of the court
3 without the permission of his or her bondsman, or violates his or
4 her contract with the bondsman in any way that does harm to the
5 bondsman, or the surety, or violates his or her obligation to the
6 court. When a bondsman or surety surrenders a defendant pursuant to
7 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, the bond shall be exonerated
10 and the clerk shall enter a minute in the case exonerating the bond.

11 B. If the defendant has been placed in custody of another
12 jurisdiction, the district attorney shall direct a hold order to the
13 official, judge or law enforcement agency where the defendant is in
14 custody. All reasonable expenses accrued in returning the defendant
15 to the original court shall be borne by the bondsman who posted the
16 bond with that court. Upon application, the bond in the original
17 court shall be exonerated when the hold order is placed and upon
18 proof of payment of expenses by the bondsman.

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

1 recommit the defendant to be held in custody on the charges for
2 which the bondsman or surety has previously posted appearance bonds
3 thereon, in accordance with the following procedure:

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

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

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

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

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

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

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

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

6 SECTION 2. AMENDATORY 59 O.S. 2001, Section 1328, is
7 amended to read as follows:

8 Section 1328. The person desiring to make a surrender of the
9 defendant shall procure a certified copy of the undertakings and
10 deliver them together with the defendant to the official in whose
11 custody the defendant was at the time bail was taken, or to the
12 official into whose custody he or she would have been given had he
13 or she been committed, who shall detain the defendant in his or her
14 custody thereon, as upon a commitment, and by a certificate in
15 writing acknowledge the surrender.

16 Upon the presentation of certified copy of the undertaking and
17 the certificate of the official, the court before which the
18 defendant has been held to answer or the court in which the
19 preliminary examination, indictment, information or appeal, as the
20 case may be is pending shall, upon notice of three (3) days given by
21 the person making the surrender to the prosecuting officer of the
22 court having jurisdiction of the offense, together with a copy of
23 the undertakings and certificate, order that the obligors be

1 exonerated from liability on their undertakings; and, if money has
2 been deposited as bail, that such money or bonds be refunded. If
3 property pledged, a certificate of exoneration be issued and the
4 lien previously filed be released and the undertakings of whatever
5 nature be canceled.

6 If certified copies of bonds are not reasonably available, the
7 bondsman or surety may recommit the defendant to be held in custody
8 on the charges for which the bondsman or surety has previously
9 posted appearance bonds thereon in accordance with the following
10 procedure:

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

15 a. the bondsman or surety has posted a bond or bonds for
16 the defendant and is hereby presented to the official
17 in whose custody the defendant was at the time bail
18 was taken,

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

20 c. the specific charges and bond amount or amounts;

21 2. The bondsman or surety shall present the Recommitment of
22 Defendant by Bondsman form to the official in whose custody the
23 defendant is being surrendered, and the official shall detain the

1 defendant in his or her custody thereon, as upon a commitment, and
2 by a certificate in writing acknowledging the surrender; and

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

8 SECTION 3. AMENDATORY 59 O.S. 2001, Section 1329, is
9 amended to read as follows:

10 Section 1329. For the purpose of surrendering the defendant,
11 the surety may arrest him before the forfeiture of the undertaking,
12 or by written authority endorsed on a certified copy of the
13 undertaking, may empower any peace officer to make arrest, first
14 paying the lawful fees therefor. In addition, the bondsman may
15 surrender the defendant by following the commitment procedures as
16 set forth in subsection C of Section 1327 of this title.

17 SECTION 4. This act shall become effective November 1, 2005.

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-15-05 - DO
19 PASS, As Coauthored.