STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 772 By: Crain

AS INTRODUCED

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 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 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, the bond shall be exonerated and the clerk shall enter a minute in the case exonerating the bond.

B. 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. 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.

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. 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, in such event the undertaking and bondsman and insurer shall be exonerated from further liability.

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

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

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

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

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

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

c. 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 surrendered, 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 courts, 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.

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

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

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

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