

An Act

ENROLLED SENATE
BILL NO. 1806

By: Leewright of the Senate

and

May of the House

An Act relating to bail bonds; amending 59 O.S. 2021, Section 1320, which relates to registration of license and fee; removing residence requirement to operate; allowing for registration of license in county of operation; eliminating limit of bonds allowable each year for nonresident bondsmen in another county not registered; removing registration of license by notice to county clerk; amending 59 O.S. 2021, Section 1327, which relates to bail enforcement; prohibiting a court from modifying terms of a previously set bond unless signed by a bondsman; providing for exoneration of bond if failure for notice; and providing an effective date.

SUBJECT: Bail bonds

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

SECTION 1. AMENDATORY 59 O.S. 2021, Section 1320, is amended to read as follows:

Section 1320. A. No bail bondsman shall become a surety on an undertaking unless he or she has first registered his or her license in the office of ~~the sheriff and with the court clerk in the~~ any county in which the bondsman ~~resides or offices, but not both~~ intends to write bonds. In ~~the any~~ county in which a bondsman registers his or her license, the bondsman shall ~~provide the court clerk with proof that he or she is a resident of the county or that the bondsman offices in the county, and shall provide notice to the~~ court clerk in writing of any change in residence or business

address within five (5) business days after a change. The court clerk of the county shall provide a list of bondsmen permitted to write bail in that county to the judges and law enforcement offices of that county. Law enforcement shall post the list conspicuously near all telephones used by prisoners. The list shall be updated and distributed to law enforcement by the court clerk at least monthly, provided there has been a change to the list, and shall consist of professional, multicounty agent, property, cash and surety bail bondsmen. Any surety bondsman without a current surety appointment shall be removed from the list. In any county not having a licensed bondsman authorized to do business within the county, the court having jurisdiction shall allow and fix bail.

~~B. Notwithstanding the foregoing provisions of this section, a bondsman may write bonds on no more than ten defendants per year in each of the remaining seventy-six counties of this state in which the bondsman cannot register his license. Provided, however, a bondsman shall not be limited to writing bonds on only ten defendants per year in a county which does not have a licensed bondsman registered in said county. The bondsman shall advise the court clerk of each such county in writing of his intention to write bonds in the county and shall file a certified copy of his license with such court clerk.~~

~~C.~~ A surety bondsman shall also file with the court clerk a certified copy of his or her appointment by power of attorney from the insurer whom he or she represents as an agent.

~~D.~~ C. A fee of Twenty Dollars (\$20.00) shall be paid to the court clerk for each county in which the bail bondsman registers ~~or files~~ his or her license. The fee shall be payable biennially by the date of license renewal. The court clerk and the sheriff shall not permit the registration or filing of a bail bondsman unless such bondsman is currently licensed by the Insurance Commissioner under the provisions of Section 1301 et seq. of this title.

SECTION 2. AMENDATORY 59 O.S. 2021, 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 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.

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 3. This act shall become effective November 1, 2022.

Passed the Senate the 9th day of March, 2022.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of April, 2022.

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: _____