

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1941

By: Coleman of the Senate

and

Sneed of the House

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations;
amending 59 O.S. 2021, Sections 1311.3 and 1327, as
last amended by Section 1, Chapter 127, O.S.L. 2023
(59 O.S. Supp. 2023, Section 1327), which relate to
bail bondsmen; clarifying language related to
unlawful acts; specifying proof needed for payment of
expenses; amending 59 O.S. 2021, Section 1332, which
relates to forfeiture procedure; providing for
conditions of travel expense reimbursement; and
providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2021, Section 1311.3, is
amended to read as follows:

Section 1311.3 A. It shall be unlawful for any person who is
not licensed to act as a bail bondsman or whose license to act as a
bail bondsman has been suspended, revoked, surrendered, or refused,

1 to do or perform any of the acts of a bail bondsman. Any person
2 convicted of violating the provisions of this subsection shall be
3 guilty of a felony and shall be punished by a fine in an amount not
4 exceeding Five Thousand Dollars (\$5,000.00).

5 B. It shall be unlawful for any bail bondsman to assist, aid,
6 or conspire with a person who is not licensed to act as a bail
7 bondsman or whose license as a bail bondsman has been suspended,
8 revoked, surrendered, or refused, to engage in any acts as a bail
9 bondsman. Any person convicted of violating the provisions of this
10 subsection shall be guilty of a felony and shall be punished by a
11 fine in an amount not to exceed Five Thousand Dollars (\$5,000.00).

12 C. The provisions of this section shall not apply to a
13 suspended or formerly licensed bail bondsman who continues to submit
14 monthly reports to the Insurance Department pursuant to subsection B
15 of Section 1314 of this title or who contracts with a licensed bail
16 enforcer pursuant to the Bail Enforcement and Licensing Act to cause
17 the apprehension and surrender of his or her defendant clients to
18 the appropriate authority. The defendant client must have a current
19 undertaking or bail contract with the suspended or formerly licensed
20 bail bondsman and such undertaking or bail contract must have been
21 made in this state by the suspended or formerly licensed bail
22 bondsman. No acts other than those listed in this subsection shall
23 be authorized or recognized after a bail bondsman is suspended or no
24 longer licensed in this state.

1 SECTION 2. AMENDATORY 59 O.S. 2021, Section 1327, as
2 last amended by Section 1, Chapter 127, O.S.L. 2023 (59 O.S. Supp.
3 2023, Section 1327), is amended to read as follows:

4 Section 1327. A. At any time before there has been a breach of
5 the undertaking in any type of bail provided herein, the surety or
6 bondsman or a licensed bail enforcer pursuant to a client contract
7 authorized by the Bail Enforcement and Licensing Act may surrender
8 the defendant, or the defendant may surrender himself or herself, to
9 the official to whose custody the defendant was committed at the
10 time bail was taken, or to the official into whose custody the
11 defendant would have been given had he or she been committed. The
12 defendant may be surrendered without the return of premium for the
13 bond if he or she has been guilty of nonpayment of premium, changes
14 address without notifying his or her bondsman, conceals himself or
15 herself, leaves the jurisdiction of the court without the permission
16 of his or her bondsman, or violates his or her contract with the
17 bondsman in any way that does harm to the bondsman, or the surety,
18 or violates his or her obligation to the court. When a bondsman or
19 surety, or a licensed bail enforcer, surrenders a defendant pursuant
20 to this subsection, the bondsman or surety shall file written
21 notification of the surrender. After surrender, and upon filing of
22 written notification of the surrender with the court clerk, the bond
23 shall be exonerated and the clerk shall enter a minute in the case
24 exonerating the bond.

1 B. 1. If the defendant has been placed in custody of another
2 jurisdiction, the district attorney shall direct a hold order to the
3 official, judge or law enforcement agency where the defendant is in
4 custody. All reasonable expenses accrued in returning the defendant
5 to the original court shall be borne by the bondsman who posted the
6 bond with that court; provided, however, except for instances
7 whereby the defendant is transported by a contracted transport
8 company, reasonable expenses shall mean the actual miles traveled in
9 transporting the defendant at a rate equal to the current Internal
10 Revenue Service standard mileage rate. Upon application, the bond
11 in the original court shall be exonerated when the hold order is
12 placed and upon proof of guarantee of payment of expenses by the
13 bondsman.

14 2. Except as provided for in paragraph 3 of this subsection,
15 the premium for a bail bond shall be considered earned by the
16 bondsman or the insurer, as applicable, when the defendant on the
17 bond is released from custody and is not incarcerated in any
18 capacity. If the bond premium has not been earned pursuant to the
19 terms of this section, the payor of the premium or the depositor of
20 any collateral, as applicable, may request the return of the premium
21 or collateral given to the bondsman for the bond. The bondsman
22 shall return any premium and collateral without delay. If a
23 bondsman returns the premium to the payor pursuant to this section,
24

1 he or she may charge a usual, customary, and reasonable fee for his
2 or her services provided in the transaction.

3 3. The premium for a bail bond shall be considered earned by
4 the bondsman, regardless of whether the defendant on the bond is
5 released from custody, if the bondsman and the payor of the bond
6 premium have agreed in writing that the purpose of the bond is to
7 secure the transfer of the defendant to another jurisdiction and the
8 defendant is in fact transferred to that jurisdiction.

9 C. If the defendant has been arrested on new charges and is in
10 the custody of the same jurisdiction in which the bondsman or surety
11 has posted an appearance bond or bonds for the defendant, and the
12 bond or bonds have not been exonerated, and certified copies of
13 bonds are not reasonably available, the bondsman or surety may
14 recommit the defendant to be held in custody on the charges for
15 which the bondsman or surety has previously posted appearance bonds
16 thereon, in accordance with the following procedure:

17 1. On a Recommitment of Defendant by Bondsman form approved by
18 the Administrative Office of the Courts, the bondsman or surety
19 shall personally affix his or her signature to an affidavit
20 attesting to the following:

21 a. the defendant is presently in the custody of the
22 jurisdiction in which the bondsman or surety has
23 posted a bond or bonds,

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

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

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

3 2. The bondsman or surety shall present the Recommitment of
4 Defendant by Bondsman form to the official in whose custody the
5 defendant is being held, and the official shall detain the defendant
6 in his or her custody, thereon, as upon a commitment, and by a
7 certificate in writing acknowledging the surrender; and

8 3. When a bondsman or surety recommitts a defendant pursuant to
9 this subsection, the bondsman or surety shall file a written
10 notification thereof to the court, and after such notification, the
11 bond or bonds shall be exonerated, and the clerk shall enter a
12 minute in the case exonerating the bond or bonds.

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

20 2. A bond posted for a petition for revocation of a suspended
21 sentence, a petition for acceleration of a deferred sentence or any
22 violation of a probationary term shall be exonerated by operation of
23 law when:
24

1 a. the defendant has confessed, stipulated or otherwise
2 agreed to the factual basis of the violation of
3 probation,

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

5 c. the deferred sentence is accelerated in whole or part,
6 or

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

8 E. The bond shall be exonerated by operation of law in any case
9 in which the defendant has been arrested on new charges or on any
10 warrant in the same jurisdiction in which the bondsman or insurer
11 has posted the appearance bond or bonds for the defendant, and the
12 defendant has been subsequently released on his or her own personal
13 recognizance or a pretrial release has been authorized by the court.

14 F. The bond shall be exonerated by operation of law in any case
15 in which the defendant has been arrested and there is an added
16 charge to a case that would result in a higher fine or longer term
17 of sentence if convicted, or an amendment to a charge that would
18 result in a higher fine or longer term of sentence if convicted;
19 provided, however, any premium paid by the defendant to the bondsman
20 or insurer from the original charge shall be at the same premium
21 rate and shall be credited to the defendant if the same bondsman or
22 insurer posts the appearance bond or bonds on the added or amended
23 charge.

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

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

11 SECTION 3. AMENDATORY 59 O.S. 2021, Section 1332, is
12 amended to read as follows:

13 Section 1332. A. If there is a breach of an undertaking, the
14 court before which the cause is pending shall issue, within ten (10)
15 days, an arrest warrant for the defendant and declare the
16 undertaking and any money, property, or securities that have been
17 deposited as bail, forfeited on the day the defendant failed to
18 appear. Within fifteen (15) days from the date of the forfeiture,
19 the order and judgment of forfeiture shall be filed with the clerk
20 of the trial court. Failure to timely issue the arrest warrant or
21 file the order and judgment of forfeiture as provided in this
22 subsection shall exonerate the bond by operation of law. In the
23 event of the forfeiture of a bail bond the clerk of the trial court
24 shall, within thirty (30) days after the order and judgment of

1 forfeiture is filed in the court, by mail with return receipt
2 requested, mail a true and correct copy of the order and judgment of
3 forfeiture to the bondsman, and if applicable, the insurer, whose
4 risk it is, and keep at least one copy of the order and judgment of
5 forfeiture on file; provided, the clerk shall not be required to
6 mail the order and judgment of forfeiture to the bondsman or insurer
7 if, within fifteen (15) days from the date of forfeiture, the
8 defendant is returned to custody, the bond is reinstated by the
9 court with the bondsman's approval, or the order of forfeiture is
10 vacated or set aside by the court. Failure of the clerk of the
11 trial court to comply with the thirty-day notice provision in this
12 subsection shall exonerate the bond by operation of law.

13 B. The order and judgment of forfeiture shall be on forms
14 prescribed by the Administrative Director of the Courts.

15 C. 1. The bail bondsman shall have ninety (90) days from
16 receipt of the order and judgment of forfeiture from the court clerk
17 or mailing of the notice if no receipt is made to return the
18 defendant to custody.

19 2. The bondsman may contract with a licensed bail enforcer
20 pursuant to the Bail Enforcement and Licensing Act to recover and
21 return the defendant to custody within the ninety-day period, or as
22 agreed, or notwithstanding the Bail Enforcement and Licensing Act if
23 the bondsman is duly appointed in this state by an insurer operating
24 in this state, the bondsman may seek the assistance of another

1 licensed bondsman in this state who is appointed by the same
2 insurer.

3 3. When the court record indicates that the defendant is
4 returned to custody in the jurisdiction where forfeiture occurred,
5 within the ninety-day period, the court clerk shall enter minutes
6 vacating the forfeiture and exonerating the bond. If the defendant
7 has been timely returned to custody, but this fact is not reflected
8 by the court record, the court shall vacate the forfeiture and
9 exonerate the bond.

10 4. For the purposes of this section, "return to custody" means:

- 11 a. the return of the defendant to the appropriate
12 Oklahoma law enforcement agency by the bondsman,
- 13 b. an appearance of the defendant in open court in the
14 court where charged,
- 15 c. arrest or incarceration within this state of the
16 defendant by law enforcement personnel, provided the
17 bondsman has requested that a hold be placed on the
18 defendant in the jurisdiction wherein the forfeiture
19 lies and has guaranteed reasonable travel expenses for
20 the return of the defendant, or
- 21 d. arrest or incarceration of the defendant in any other
22 jurisdiction, provided the bondsman has requested that
23 a hold be placed on the defendant in the jurisdiction
24 wherein the forfeiture lies and has guaranteed

1 reasonable travel expenses for the return of the
2 defendant.

3 5. In addition to the provisions set forth in paragraphs 3 and
4 4 of this subsection, the bond shall be exonerated by operation of
5 law in any case in which:

- 6 a. the bondsman has requested in writing of the sheriff's
7 department in the county where the forfeiture occurred
8 that the defendant be entered into the computerized
9 records of the National Crime Information Center
10 (NCIC), and the request has not been honored within
11 fourteen (14) business days of the receipt of the
12 written request by the department,
- 13 b. the defendant has been arrested outside of this state
14 and the court record shows the prosecuting attorney
15 has declined to proceed with extradition, or
- 16 c. the warrant issued by the court has not been entered
17 into an active warrant database available to law
18 enforcement within five (5) business days after its
19 issued date.

20 6. The court may, in its discretion, vacate the order of
21 forfeiture and exonerate the bond where good cause has been shown
22 for:

- 23 a. the defendant's failure to appear, or
24

1 b. the bondsman's failure to return the defendant to
2 custody within ninety (90) days.

3 7. When a bondsman or insurer ("requestor") has guaranteed
4 travel expenses to return a defendant to custody:

5 a. the law enforcement agency that placed the hold shall
6 promptly advise the requestor of a hit confirmation,

7 b. prior to transporting the defendant, the law
8 enforcement agency that placed the hold shall provide
9 the requestor a good faith estimate of the reasonable
10 return expenses to return the defendant to custody.

11 The requestor may request to decline to pay travel
12 expenses, and the law enforcement agency may release
13 its hold and the defendant shall not be considered
14 returned to custody. If the law enforcement agency
15 cannot contact the requestor, the requestor's
16 guarantee of travel expenses shall be honored by the
17 requestor, and

18 c. a requestor may request to withdraw their NCIC request
19 any time prior to a defendant's arrest.

20 D. 1. If, within ninety (90) days from receipt of the order
21 and judgment of forfeiture from the court clerk, or mailing of the
22 notice if no receipt is made, the defendant is not returned to
23 custody, or the forfeiture has not been stayed, the bondsman and, if
24 applicable, the insurer whose risk it is shall deposit cash or other

1 valuable securities in the face amount of the bond with the court
2 clerk ninety-one (91) days from receipt of the order and judgment of
3 forfeiture from the court clerk, or mailing of the notice if no
4 receipt is made; provided, this provision shall not apply if the
5 defendant has been returned to custody within the ninety-day period
6 and the court has failed to vacate the forfeiture pursuant to
7 paragraphs 3 through 6 of subsection C of this section.

8 2. After the order and judgment has been paid within ninety-one
9 (91) days from receipt of the order and judgment of forfeiture from
10 the court clerk, or mailing of the notice if no receipt is made, as
11 required in paragraph 1 of this subsection, the bondsman and, if
12 applicable, the insurer whose risk it is shall have one (1) year
13 from the date payment is due to return the defendant to custody as
14 defined by paragraph 4 of subsection C of this section. In the
15 event the defendant is returned to custody and all expenses for the
16 defendant's return have been ~~paid~~ guaranteed by the bondsman or
17 insurer, the bondsman's or insurer's property shall be returned;
18 provided, the request for remitter be made by motion filed within
19 one (1) year from the date payment is due.

20 3. If the additional cash or securities are not deposited with
21 the court clerk on or before the ninety-first day after the date of
22 service of the order and judgment of forfeiture from the court
23 clerk, or mailing of the notice if no receipt is made, then the
24 court clerk shall notify the Insurance Commissioner by sending a

1 certified copy of the order and judgment of forfeiture and proof
2 that the bondsman and, if applicable, the insurer have been notified
3 by mail with return receipt requested.

4 4. The Insurance Commissioner shall:

5 a. in the case of a surety bondsman, immediately cancel
6 the license privilege and authorization of the insurer
7 to do business within the State of Oklahoma and cancel
8 the appointment of all surety bondsman agents of the
9 insurer who are licensed by Section 1301 et seq. of
10 this title, and

11 b. in the case of a professional bondsman, withdraw the
12 face amount of the forfeiture from the deposit
13 provided in Section 1306 of this title. The
14 Commissioner shall then immediately direct the
15 professional bondsman, by mail with return receipt
16 requested, to make additional deposits to bring the
17 original deposit to the required level. Should the
18 professional bondsman, after being notified, fail to
19 make an additional deposit within ten (10) days from
20 the receipt of notice, or mailing of notice if no
21 receipt is made, the license shall be revoked and all
22 sums presently on deposit shall be held by the
23 Commissioner to secure the face amounts of bonds
24 outstanding. Upon release of the bonds, any amount of

1 deposit in excess of the bonds shall be returned to
2 the bondsman; provided, the bail bondsman shall have
3 had notice as required by the court, at the place of
4 the bondsman's business, of the trial or hearing of
5 the defendant named in the bond. The notice shall
6 have been at least ten (10) days before the required
7 appearance of the defendant, unless the appearance is
8 scheduled at the time of execution of the bond.
9 Notwithstanding the foregoing, the bondsman shall be
10 deemed to have had notice of the trial or hearing if
11 the defendant named in the bond shall have been
12 recognized back in open court to appear at a date
13 certain for the trial or hearing.

14 5. If the actions of any bail bondsman force the Insurance
15 Commissioner to withdraw monies, deposited pursuant to Section 1306
16 of this title, to pay past-due executions more than two (2) times in
17 a consecutive twelve-month period, then the license of the
18 professional bondsman shall, in addition to other penalties, be
19 suspended automatically for one (1) year or until a deposit equal to
20 all outstanding forfeitures due is made. The deposit shall be
21 maintained until the Commissioner deems it feasible to reduce the
22 deposit. In no case shall an increased deposit exceed two (2) years
23 unless there is a recurrence of withdrawals as stated herein.
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1 E. 1. If the defendant's failure to appear was the result of
2 the defendant's death or of being in the custody of a court other
3 than the court in which the appearance was scheduled, forfeiture
4 shall not lie. Upon proof to the court that the bondsman paid the
5 order and judgment of forfeiture without knowledge that the
6 defendant was deceased or in custody of another court on the day the
7 defendant was due to appear, and all expenses for the defendant's
8 return have been paid by the bondsman, the bondsman's property shall
9 be returned.

10 2. Where the defendant is in the custody of another court, the
11 district attorney or municipal attorney shall direct a hold order to
12 the official, judge, court or law enforcement agent wherein the
13 defendant is in custody; provided, that all expenses accrued as a
14 result of returning the custody of the defendant shall be borne by
15 the bondsman.

16 F. The district attorney or municipal attorney shall not
17 receive any bonuses or other monies or property for or by reason of
18 services or actions in connection with or collection of bond
19 forfeitures under the provisions of Section 1301 et seq. of this
20 title, except that the court may award a reasonable attorney fee in
21 favor of the prevailing party for legal services in any civil action
22 or proceeding to collect upon a judgment of forfeiture.

23 G. The above procedures shall be subject to the bondsman's
24 rights of appeal. The bondsman or insurer may appeal an order and

1 judgment of forfeiture pursuant to the procedures for appeal set
2 forth in Section 951 et seq. of Title 12 of the Oklahoma Statutes.
3 To stay the execution of the order and judgment of forfeiture, the
4 bondsman or insurer shall comply with the provisions set forth in
5 Section 990.4 of Title 12 of the Oklahoma Statutes.

6 H. For municipal courts of record, the above procedures are
7 criminal in nature and ancillary to the criminal procedures before
8 the trial court and shall be subject to the bondsman's right of
9 appeal. The bondsman or insurer may appeal an order and judgment of
10 forfeiture by the municipal courts of record to the Court of
11 Criminal Appeals.

12 I. Upon a motion to the court, any person executing a bail bond
13 as principal or as surety shall be exonerated after three (3) years
14 have elapsed from the posting of the bond, unless a judgment has
15 been entered against the surety or the principal for the forfeiture
16 of the bond, or unless the court grants an extension of the three-
17 year time period for good cause shown, upon motion by the
18 prosecuting attorney.

19 SECTION 4. This act shall become effective November 1, 2024.
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