

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3349

By: Tedford

AS INTRODUCED

An Act relating to bail bondsmen; amending 59 O.S. 2021, Section 1311.3, which relates to unlawful acts; prohibiting unlicensed persons from acting as a bail bondsman; prohibiting assisting unlicensed persons from acting as a bail bondsman; amending 59 O.S. 2021, Section 1327, as last amended by Section 1, Chapter 127, O.S.L. 2023 (59 O.S. Supp. 2023, Section 1327), which relates to defendants in custody in another jurisdiction; clarifying language; 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, to do or perform any of the acts of a bail bondsman. Any person convicted of violating the provisions of this subsection shall be guilty of a felony and shall be punished by a fine in an amount not exceeding Five Thousand Dollars (\$5,000.00).

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

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

21 SECTION 2. AMENDATORY 59 O.S. 2021, Section 1327, as
22 last amended by Section 1, Chapter 127, O.S.L. 2023 (59 O.S. Supp.
23 2023, Section 1327), is amended to read as follows:
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1 Section 1327. A. At any time before there has been a breach of
2 the undertaking in any type of bail provided herein, the surety or
3 bondsman or a licensed bail enforcer pursuant to a client contract
4 authorized by the Bail Enforcement and Licensing Act may surrender
5 the defendant, or the defendant may surrender himself or herself, to
6 the official to whose custody the defendant was committed at the
7 time bail was taken, or to the official into whose custody the
8 defendant would have been given had he or she been committed. The
9 defendant may be surrendered without the return of premium for the
10 bond if he or she has been guilty of nonpayment of premium, changes
11 address without notifying his or her bondsman, conceals himself or
12 herself, leaves the jurisdiction of the court without the permission
13 of his or her bondsman, or violates his or her contract with the
14 bondsman in any way that does harm to the bondsman, or the surety,
15 or violates his or her obligation to the court. When a bondsman or
16 surety, or a licensed bail enforcer, surrenders a defendant pursuant
17 to this subsection, the bondsman or surety shall file written
18 notification of the surrender. After surrender, and upon filing of
19 written notification of the surrender with the court clerk, the bond
20 shall be exonerated and the clerk shall enter a minute in the case
21 exonerating the bond.

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

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

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

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

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

- 17 a. the defendant is presently in the custody of the
18 jurisdiction in which the bondsman or surety has
19 posted a bond or bonds,
- 20 b. the case number, if any, assigned to each bond,
- 21 c. that the bond or bonds have not been exonerated, and
- 22 d. the specific charges and bond amount or amounts;

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

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

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

16 2. A bond posted for a petition for revocation of a suspended
17 sentence, a petition for acceleration of a deferred sentence or any
18 violation of a probationary term shall be exonerated by operation of
19 law when:

- 20 a. the defendant has confessed, stipulated or otherwise
21 agreed to the factual basis of the violation of
22 probation,
23 b. the suspended sentence is revoked in whole or part,
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- 1 c. the deferred sentence is accelerated in whole or part,
2 or
3 d. any additional sanction is imposed by the court.

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

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

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

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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, 2024.

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