

An Act

ENROLLED SENATE
BILL NO. 1941

By: Coleman of the Senate

and

Sneed of the House

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, as amended by Section 1 of Enrolled Senate Bill No. 805 of the 2nd Session of the 59th Oklahoma Legislature, which relates to forfeiture procedure; providing for conditions of travel expense reimbursement; and providing an effective date.

SUBJECT: Bail bondsmen

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).

B. It shall be unlawful for any bail bondsman to assist, aid, or conspire with a person who is not licensed to act as a bail bondsman or whose license as a bail bondsman has been suspended,

revoked, surrendered, or refused, to engage in any acts as 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 to exceed Five Thousand Dollars (\$5,000.00).

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

SECTION 2. AMENDATORY 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), 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 guarantee 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 recommitts 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 or on any warrant 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 or a pretrial release has been authorized by the court.

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. AMENDATORY 59 O.S. 2021, Section 1332, as amended by Section 1 of Enrolled Senate Bill No. 805 of the 2nd Session of the 59th Oklahoma Legislature, is amended to read as follows:

Section 1332. A. If there is a breach of an undertaking, the court before which the cause is pending shall issue, within ten (10) days, an arrest warrant for the defendant and declare the undertaking and any money, property, or securities that have been deposited as bail, forfeited on the day the defendant failed to appear. Within fifteen (15) days from the date of the forfeiture, the order and judgment of forfeiture shall be filed with the clerk of the trial court. Failure to timely issue the arrest warrant or file the order and judgment of forfeiture as provided in this subsection shall exonerate the bond by operation of law. In the event of the forfeiture of a bail bond the clerk of the trial court shall, within thirty (30) days after the order and judgment of forfeiture is filed in the court, by mail with return receipt requested, mail a true and correct copy of the order and judgment of forfeiture to the bondsman, and if applicable, the insurer, whose risk it is, and keep at least one copy of the order and judgment of forfeiture on file; provided, the clerk shall not be required to mail the order and judgment of forfeiture to the bondsman or insurer if, within fifteen (15) days from the date of forfeiture, the defendant is returned to custody, the bond is reinstated by the court with the bondsman's approval, or the order of forfeiture is vacated or set aside by the court. Failure of the clerk of the trial court to comply with the thirty-day notice provision in this subsection shall exonerate the bond by operation of law.

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

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

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

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

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

- a. the return of the defendant to the appropriate Oklahoma law enforcement agency by the bondsman,
- b. an appearance of the defendant in open court in the court where charged,
- c. arrest or incarceration within this state of the defendant by law enforcement personnel, provided the bondsman has requested that a hold be placed on the defendant in the jurisdiction wherein the forfeiture lies and has guaranteed reasonable travel expenses for the return of the defendant, or
- d. arrest or incarceration of the defendant in any other jurisdiction, provided the bondsman has requested that a hold be placed on the defendant in the jurisdiction wherein the forfeiture lies and has guaranteed reasonable travel expenses for the return of the defendant.

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

- a. the bondsman has requested in writing of the sheriff's department in the county where the forfeiture occurred that the defendant be entered into the computerized records of the National Crime Information Center (NCIC), and the request has not been honored within fourteen (14) business days of the receipt of the written request by the department,
- b. the defendant has been arrested outside of this state and the court record shows the prosecuting attorney has declined to proceed with extradition,
- c. the defendant's bondsman or insurer has requested in writing of the prosecuting attorney to file felony bond jumping charges against the defendant when the defendant fails to surrender within thirty (30) days from failing to appear in court and the prosecuting attorney has not filed such charges within thirty (30) business days of the receipt of the written request, or
- d. the warrant issued by the court has not been entered into an active warrant database available to law enforcement within five (5) business days after its issued date.

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

- a. the defendant's failure to appear, or
- b. the bondsman's failure to return the defendant to custody within ninety (90) days.

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

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

b. prior to transporting the defendant, the law enforcement agency that placed the hold shall provide the requestor a good faith estimate of the reasonable return expenses to return the defendant to custody. The requestor may request to decline to pay travel expenses, and the law enforcement agency may release its hold and the defendant shall not be considered returned to custody. If the law enforcement agency cannot contact the requestor, the requestor's guarantee of travel expenses shall be honored by the requestor, and

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

D. 1. If, within ninety (90) days from receipt of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made, the defendant is not returned to custody, or the forfeiture has not been stayed, the bondsman and, if applicable, the insurer whose risk it is shall deposit cash or other valuable securities in the face amount of the bond with the court clerk ninety-one (91) days from receipt of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made; provided, this provision shall not apply if the defendant has been returned to custody within the ninety-day period and the court has failed to vacate the forfeiture pursuant to paragraphs 3 through 6 of subsection C of this section.

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

3. If the additional cash or securities are not deposited with the court clerk on or before the ninety-first day after the date of service of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made, then the court clerk shall notify the Insurance Commissioner by sending a certified copy of the order and judgment of forfeiture and proof that the bondsman and, if applicable, the insurer have been notified by mail with return receipt requested.

4. The Insurance Commissioner shall:

- a. in the case of a surety bondsman, immediately cancel the license privilege and authorization of the insurer to do business within the State of Oklahoma and cancel the appointment of all surety bondsman agents of the insurer who are licensed by Section 1301 et seq. of this title, and
- b. in the case of a professional bondsman, withdraw the face amount of the forfeiture from the deposit provided in Section 1306 of this title. The Commissioner shall then immediately direct the professional bondsman, by mail with return receipt requested, to make additional deposits to bring the original deposit to the required level. Should the professional bondsman, after being notified, fail to make an additional deposit within ten (10) days from the receipt of notice, or mailing of notice if no receipt is made, the license shall be revoked and all sums presently on deposit shall be held by the Commissioner to secure the face amounts of bonds outstanding. Upon release of the bonds, any amount of deposit in excess of the bonds shall be returned to the bondsman; provided, the bail bondsman shall have had notice as required by the court, at the place of the bondsman's business, of the trial or hearing of the defendant named in the bond. The notice shall have been at least ten (10) days before the required appearance of the defendant, unless the appearance is scheduled at the time of execution of the bond. Notwithstanding the foregoing, the bondsman shall be deemed to have had notice of the trial or hearing if

the defendant named in the bond shall have been recognized back in open court to appear at a date certain for the trial or hearing.

5. If the actions of any bail bondsman force the Insurance Commissioner to withdraw monies, deposited pursuant to Section 1306 of this title, to pay past-due executions more than two (2) times in a consecutive twelve-month period, then the license of the professional bondsman shall, in addition to other penalties, be suspended automatically for one (1) year or until a deposit equal to all outstanding forfeitures due is made. The deposit shall be maintained until the Commissioner deems it feasible to reduce the deposit. In no case shall an increased deposit exceed two (2) years unless there is a recurrence of withdrawals as stated herein.

E. 1. If the defendant's failure to appear was the result of the defendant's death or of being in the custody of a court other than the court in which the appearance was scheduled, forfeiture shall not lie. Upon proof to the court that the bondsman paid the order and judgment of forfeiture without knowledge that the defendant was deceased or in custody of another court on the day the defendant was due to appear, and all expenses for the defendant's return have been paid by the bondsman, the bondsman's property shall be returned.

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

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

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

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

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

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

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

Passed the Senate the 15th day of May, 2024.

Presiding Officer of the Senate

Passed the House of Representatives the 15th day of April, 2024.

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: _____