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Chapter No. 424
13/HR12/R1482CS
JP / EW

HOUSE BILL NO. 714

Originated in House  Clerk

HOUSE BILL NO. 714

AN ACT TO AMEND SECTION 99-5-25, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN PROVISIONS REGARDING FORFEITURE OF BOND; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 99-5-25, Mississippi Code of 1972, is amended as follows:

99-5-25. (1) (a) The purpose of bail is to guarantee appearance and a bail bond shall not be forfeited for any other reason.

(b) If a defendant in any criminal case, proceeding or matter fails to appear for any proceeding as ordered by the court, then the court shall order the bail forfeited and a judgment nisi and a bench warrant issued at the time of nonappearance. The clerk of the court shall notify the surety of the forfeiture by writ of scire facias, with a copy of the judgment nisi and bench warrant attached thereto, within ten (10) working days of such order of judgment nisi either by personal service or by certified mail. Failure of the clerk to provide the required notice within

ten (10) working days shall constitute prima facie evidence that the order should be set aside. Any felony warrant issued by a court for nonappearance shall be put on the National Crime Information Center (NCIC) until the defendant is returned to custody.

(c) The judgment nisi shall be returnable for ninety (90) days from the date of issuance. If during such period the defendant appears before the court, or is arrested and surrendered, then the judgment nisi shall be set aside and a copy of the judgment that is set aside shall be served on the surety by personal service or certified mail. If the surety produces the defendant or provides to the court reasonable mitigating circumstances upon such showing, then the forfeiture shall not be made final. If the forfeiture is made final, a copy of the final judgment shall be served on the surety within ten (10) working days by either personal service or certified mail. Reasonable mitigating circumstances shall be that the defendant is incarcerated in another jurisdiction, that the defendant is hospitalized under a doctor's care, that the defendant is in a recognized drug rehabilitation program, that the defendant has been placed in a witness protection program and it shall be the duty of any such agency placing such defendant into a witness protection program to notify the court and the court to notify the surety, or any other reason justifiable to the court.

(d) Execution upon the final judgment shall be automatically stayed for ninety (90) days from the date of entry of the final judgment. If, at any time before execution of the final judgment, the defendant appears in court either voluntarily or in custody after surrender or arrest, the court shall on its own motion direct that the forfeiture be set aside and the bond exonerated as of the date the defendant first appeared in court.

(2) If a final judgment is entered against a surety licensed by the Department of Insurance and has not been set aside after ninety (90) days, or later if such time is extended by the court issuing the judgment nisi, then the court shall order the department to revoke the authority of * * * the surety to write bail bonds. The commissioner shall, upon notice of the court, notify * * * the surety within five (5) working days of receipt of revocation. If after ten (10) working days of such notification the revocation order has not been set aside by the court, then the commissioner shall revoke the authority of the surety and all agents of the surety and shall notify the sheriff of every county of such revocation.

(3) If within eighteen (18) months of the date of the final forfeiture the defendant appears for court, is arrested or surrendered to the court, or if the defendant is found to be incarcerated in another jurisdiction and a hold order placed on the defendant, then the amount of bail, less reasonable

extradition cost, excluding attorney fees, shall be refunded by the court upon application by the surety.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 13, 2013



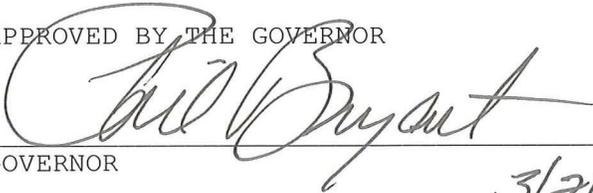
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 12, 2013



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



GOVERNOR

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