



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

February 23, 2023

The Honorable Seth Adams  
Justice Court Judge, Tishomingo County  
1008 Battleground Drive, Room 212  
Iuka, Mississippi 38852

Re: Bail Bond Statutes

Dear Judge Adams:

The Office of the Attorney General has received your request for an official opinion.

### Questions Presented

1. Does “another jurisdiction” in Mississippi Code Annotated Section 99-5-25 specifically mean another jurisdiction in Mississippi, or does it include jurisdictions across state lines?
2. If a bonding agency tries to surrender a defendant who is incarcerated in another state, does a justice court have the jurisdiction and authority to place a hold order on the defendant outside of Mississippi?
3. When a bonding agency is unable to surrender a defendant because he is incarcerated in another state, should a judgment nisi and final judgment order be set aside until the amount of bond is paid?

### Brief Response

1. “Another jurisdiction” in Section 99-5-25 includes jurisdictions outside of Mississippi.
2. A Mississippi court of proper jurisdiction shall issue a hold order if a defendant is found incarcerated in another jurisdiction outside of Mississippi upon a bail agent’s presentation of a written notice of surrender in accordance with Section 99-5-27(1)(b).
3. Because you present a mixed question of fact and law, this office is unable to respond by way of official opinion.

### Applicable Law and Discussion

As an initial matter, opinions of this office are limited to prospective questions of state law. Miss. Code Ann. § 7-5-25. This office does not validate or invalidate past actions. Therefore, to the extent your request deals with a past action, this office must decline to respond with an official opinion. MS AG Op., *Brock* at \*1 (Nov. 8, 2019). Further, this opinion is limited to hold orders issued by Mississippi courts and does not opine on other legal procedures including, but not limited to, extradition procedures.

It is the opinion of this office that “another jurisdiction” in Section 99-5-25 includes jurisdictions outside of Mississippi. Section 99-5-25(3) provides:

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.

(Emphasis added); *see also Id.* at (1)(c). In the context of bail bonds, the phrase “another jurisdiction” is used in other sections of the Mississippi Code, and the Mississippi Supreme Court has said, “[a]ssociated words take their meaning from one another under the doctrine of ‘noscitur a sociis[,]’ the philosophy of which is that the meaning of a doubtful word may be ascertained by reference to words associated with it.” *State Farm Ins. Co. v. Gay*, 526 So. 2d 534, 537 (Miss. 1988) (internal citations omitted).

While interpreting Section 83-39-7(3), which addresses a bondsman’s right to an extension of time delaying final judgment if a defendant is incarcerated in another jurisdiction, the Mississippi Supreme Court found that bondsmen were entitled to the extension when the defendant was in lawful custody in a jurisdiction outside of Mississippi. *Wood v. State*, 345 So. 2d 616, 618 (Miss. 1977). Therefore, applying the doctrine of “noscitur a sociis,” it is the opinion of this office that as in Section 83-39-7(3), “another jurisdiction” in Section 99-5-25 includes jurisdictions outside of Mississippi.

In response to your second question, a court shall issue a hold order, for purposes of surrendering a defendant who is incarcerated in another jurisdiction outside of Mississippi, in accordance with the circumstances provided in Section 99-5-27, which states, in pertinent part:

(1)(b) A bail agent may surrender the principal if the principal is found to be detained on another charge. *If the principal is found incarcerated in another jurisdiction*, the bail agent may surrender him by verbal or written notice of surrender to the sheriff or chief of police, or his jailer, of that jurisdiction and the notice of surrender shall act as a “Hold Order” and *upon presentation of written surrender notice to the court of proper jurisdiction, the court shall order a “Hold Order” placed on the principal for the court* and shall relieve the bail agent of liability on the principal's bond, with the provision that, upon release from incarceration in the other jurisdiction, return of the principal to the sheriff shall be

the responsibility of the bail agent. The bail agent shall satisfy the responsibility to return a principal held by a “Hold Order” in another jurisdiction upon release from the other jurisdiction either by personally returning the principal to the sheriff at no cost to the county or, where the other jurisdiction will not release the principal to any person other than a law enforcement officer, by reimbursing to the county the reasonable cost of the return of the principal, not to exceed the cost that would be entailed if the first option were available.

(c) The surrender of the principal by the bail agent, within the time period provided in Section 99-5-25, shall serve to discharge the bail agent’s liability to the State of Mississippi and any of its courts; but if this is done after forfeiture of the bond or recognizance, the court shall set aside the judgment nisi or final judgment upon filing of surrender notice by the bail agent.

Miss. Code Ann. § 99-5-27(1)(b), (c) (emphasis added).

In accordance with our answer to your first question and the language in Section 99-5-27(1)(b), it is the opinion of this office that a Mississippi court of proper jurisdiction shall issue a hold order if a defendant is found incarcerated in another jurisdiction outside of Mississippi upon a bail agent’s presentation of a written notice of surrender in compliance with Section 99-5-27(1)(b).

Your third question presents a mixed question of fact and law; thus, we must decline to respond by official opinion. MS AG Op., *Barton* at \*2 n.2 (May 17, 2021) (identifying mixed questions of fact and law as one of various kinds of questions that cannot be addressed by official opinion).

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Abigail C. Overby*

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