

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Clerks of Courts Act is amended by adding
5 Section 27.3d as follows:

6 (705 ILCS 105/27.3d new)

7 Sec. 27.3d. Circuit Court Clerk Operation and
8 Administrative Fund. The Circuit Court Clerk Operation and
9 Administrative Fund is created to offset the cost incurred by
10 the circuit court clerk of performing the additional duties
11 required to collect and disburse funds to entities of State and
12 local government as provided by law. The circuit court clerk
13 shall be the custodian, ex-officio, of this Fund and shall use
14 the Fund to perform the duties required by his or her office.
15 The moneys deposited into the Circuit Court Clerk Operation and
16 Administrative Fund shall be retained in a special fund
17 designated as the Circuit Court Clerk Operation and
18 Administrative Fund. The Fund shall be audited by the auditor
19 and retained by the clerk for the purpose of conducting the
20 annual circuit clerk audit. Expenditures shall be made from the
21 Fund by the circuit court clerk for expenses related to the
22 cost of collection for and disbursement to entities of State
23 and local government.

24 Section 10. The Code of Criminal Procedure of 1963 is
25 amended by changing Section 110-7 as follows:

26 (725 ILCS 5/110-7) (from Ch. 38, par. 110-7)

27 Sec. 110-7. Deposit of Bail Security.

28 (a) The person for whom bail has been set shall execute the
29 bail bond and deposit with the clerk of the court before which
30 the proceeding is pending a sum of money equal to 10% of the

1 bail, but in no event shall such deposit be less than \$25. The
2 clerk of the court shall provide a space on each form for a
3 person other than the accused who has provided the money for
4 the posting of bail to so indicate and a space signed by an
5 accused who has executed the bail bond indicating whether a
6 person other than the accused has provided the money for the
7 posting of bail. The form shall also include a written notice
8 to such person who has provided the defendant with the money
9 for the posting of bail indicating that the bail may be used to
10 pay costs, attorney's fees, fines, or other purposes authorized
11 by the court and if the defendant fails to comply with the
12 conditions of the bail bond, the court shall enter an order
13 declaring the bail to be forfeited. The written notice must be:
14 (1) distinguishable from the surrounding text; (2) in bold type
15 or underscored; and (3) in a type size at least 2 points larger
16 than the surrounding type. When a person for whom bail has been
17 set is charged with an offense under the Illinois Controlled
18 Substances Act or the Methamphetamine Control and Community
19 Protection Act which is a Class X felony, the court may require
20 the defendant to deposit a sum equal to 100% of the bail. Where
21 any person is charged with a forcible felony while free on bail
22 and is the subject of proceedings under Section 109-3 of this
23 Code the judge conducting the preliminary examination may also
24 conduct a hearing upon the application of the State pursuant to
25 the provisions of Section 110-6 of this Code to increase or
26 revoke the bail for that person's prior alleged offense.

27 (b) Upon depositing this sum and any bond fee authorized by
28 law, the person shall be released from custody subject to the
29 conditions of the bail bond.

30 (c) Once bail has been given and a charge is pending or is
31 thereafter filed in or transferred to a court of competent
32 jurisdiction the latter court shall continue the original bail
33 in that court subject to the provisions of Section 110-6 of
34 this Code.

35 (d) After conviction the court may order that the original
36 bail stand as bail pending appeal or deny, increase or reduce

1 bail subject to the provisions of Section 110-6.2.

2 (e) After the entry of an order by the trial court allowing
3 or denying bail pending appeal either party may apply to the
4 reviewing court having jurisdiction or to a justice thereof
5 sitting in vacation for an order increasing or decreasing the
6 amount of bail or allowing or denying bail pending appeal
7 subject to the provisions of Section 110-6.2.

8 (f) When the conditions of the bail bond have been
9 performed and the accused has been discharged from all
10 obligations in the cause the clerk of the court shall return to
11 the accused or to the defendant's designee by an assignment
12 executed at the time the bail amount is deposited, unless the
13 court orders otherwise, 90% of the sum which had been deposited
14 and shall retain as bail bond costs 10% of the amount
15 deposited. However, in no event shall the amount retained by
16 the clerk as bail bond costs be less than \$5. Bail bond
17 deposited by or on behalf of a defendant in one case may be
18 used, in the court's discretion, to satisfy financial
19 obligations of that same defendant incurred in a different case
20 due to a fine, court costs, restitution or fees of the
21 defendant's attorney of record. In counties with a population
22 of 3,000,000 or more, the court shall not order bail bond
23 deposited by or on behalf of a defendant in one case to be used
24 to satisfy financial obligations of that same defendant in a
25 different case until the bail bond is first used to satisfy
26 court costs and attorney's fees in the case in which the bail
27 bond has been deposited and any other unpaid child support
28 obligations are satisfied. In counties with a population of
29 less than 3,000,000, the court shall not order bail bond
30 deposited by or on behalf of a defendant in one case to be used
31 to satisfy financial obligations of that same defendant in a
32 different case until the bail bond is first used to satisfy
33 court costs in the case in which the bail bond has been
34 deposited.

35 At the request of the defendant the court may order such
36 90% of defendant's bail deposit, or whatever amount is

1 repayable to defendant from such deposit, to be paid to
2 defendant's attorney of record.

3 (g) If the accused does not comply with the conditions of
4 the bail bond the court having jurisdiction shall enter an
5 order declaring the bail to be forfeited. Notice of such order
6 of forfeiture shall be mailed forthwith to the accused at his
7 last known address. If the accused does not appear and
8 surrender to the court having jurisdiction within 30 days from
9 the date of the forfeiture or within such period satisfy the
10 court that appearance and surrender by the accused is
11 impossible and without his fault the court shall enter judgment
12 for the State if the charge for which the bond was given was a
13 felony or misdemeanor, or if the charge was quasi-criminal or
14 traffic, judgment for the political subdivision of the State
15 which prosecuted the case, against the accused for the amount
16 of the bail and costs of the court proceedings; however, in
17 counties with a population of less than 3,000,000, instead of
18 the court entering a judgment for the full amount of the bond
19 the court may, in its discretion, enter judgment for the cash
20 deposit on the bond, less costs, retain the deposit for further
21 disposition or, if a cash bond was posted for failure to appear
22 in a matter involving enforcement of child support or
23 maintenance, the amount of the cash deposit on the bond, less
24 outstanding costs, may be awarded to the person or entity to
25 whom the child support or maintenance is due. The deposit made
26 in accordance with paragraph (a) shall be applied to the
27 payment of costs. If judgment is entered and any amount of such
28 deposit remains after the payment of costs it shall be applied
29 to payment of the judgment and transferred to the treasury of
30 the municipal corporation wherein the bond was taken if the
31 offense was a violation of any penal ordinance of a political
32 subdivision of this State, or to the treasury of the county
33 wherein the bond was taken if the offense was a violation of
34 any penal statute of this State. The balance of the judgment
35 may be enforced and collected in the same manner as a judgment
36 entered in a civil action.

1 (h) After a judgment for a fine and court costs or either
2 is entered in the prosecution of a cause in which a deposit had
3 been made in accordance with paragraph (a) the balance of such
4 deposit, after deduction of bail bond costs, shall be applied
5 to the payment of the judgment.

6 (i) When a court appearance is required for an alleged
7 violation of the Criminal Code of 1961, the Illinois Vehicle
8 Code, the Wildlife Code, the Fish and Aquatic Life Code, the
9 Child Passenger Protection Act, or a comparable offense of a
10 unit of local government as specified in Supreme Court Rule
11 551, and if the accused does not appear in court on the date
12 set for appearance or any date to which the case may be
13 continued and the court issues an arrest warrant for the
14 accused, based upon his or her failure to appear when having so
15 previously been ordered to appear by the court, the accused
16 upon his or her admission to bail shall be assessed by the
17 court a penalty of \$100. The penalty shall be in addition to
18 any bail that the accused is required to deposit for the
19 offense for which the accused has been charged and may not be
20 used for the payment of court costs or fines assessed for the
21 offense. The clerk of the court shall remit \$95 of the penalty
22 assessed to the arresting agency who brings the offender in on
23 the arrest warrant. The clerk of the court shall remit \$5 of
24 the penalty assessed to the Circuit Court Clerk Operation and
25 Administrative Fund as provided in Section 27.3d of the Clerks
26 of Courts Act.

27 (Source: P.A. 93-371, eff. 1-1-04; 93-760, eff. 1-1-05; 94-556,
28 eff. 9-11-05.)