



Filed: 2/8/2006

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LRB094 15355 RLC 55545 a

1 AMENDMENT TO HOUSE BILL 4959

2 AMENDMENT NO. _____. Amend House Bill 4959 by replacing
3 everything after the enacting clause with the following:

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 retained by the clerk for the purpose of conducting the annual
20 circuit clerk audit. Expenditures shall be made from the Fund
21 by the circuit court clerk for expenses related to the cost of
22 collection for and disbursement to entities of State and local
23 government.

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

3 (725 ILCS 5/110-7) (from Ch. 38, par. 110-7)

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

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

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

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

9 (d) After conviction the court may order that the original
10 bail stand as bail pending appeal or deny, increase or reduce
11 bail subject to the provisions of Section 110-6.2.

12 (e) After the entry of an order by the trial court allowing
13 or denying bail pending appeal either party may apply to the
14 reviewing court having jurisdiction or to a justice thereof
15 sitting in vacation for an order increasing or decreasing the
16 amount of bail or allowing or denying bail pending appeal
17 subject to the provisions of Section 110-6.2.

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

1 different case until the bail bond is first used to satisfy
2 court costs and attorney's fees in the case in which the bail
3 bond has been deposited and any other unpaid child support
4 obligations are satisfied. In counties with a population of
5 less than 3,000,000, the court shall not order bail bond
6 deposited by or on behalf of a defendant in one case to be used
7 to satisfy financial obligations of that same defendant in a
8 different case until the bail bond is first used to satisfy
9 court costs in the case in which the bail bond has been
10 deposited.

11 At the request of the defendant the court may order such
12 90% of defendant's bail deposit, or whatever amount is
13 repayable to defendant from such deposit, to be paid to
14 defendant's attorney of record.

15 (g) If the accused does not comply with the conditions of
16 the bail bond the court having jurisdiction shall enter an
17 order declaring the bail to be forfeited. Notice of such order
18 of forfeiture shall be mailed forthwith to the accused at his
19 last known address. If the accused does not appear and
20 surrender to the court having jurisdiction within 30 days from
21 the date of the forfeiture or within such period satisfy the
22 court that appearance and surrender by the accused is
23 impossible and without his fault the court shall enter judgment
24 for the State if the charge for which the bond was given was a
25 felony or misdemeanor, or if the charge was quasi-criminal or
26 traffic, judgment for the political subdivision of the State
27 which prosecuted the case, against the accused for the amount
28 of the bail and costs of the court proceedings; however, in
29 counties with a population of less than 3,000,000, instead of
30 the court entering a judgment for the full amount of the bond
31 the court may, in its discretion, enter judgment for the cash
32 deposit on the bond, less costs, retain the deposit for further
33 disposition or, if a cash bond was posted for failure to appear
34 in a matter involving enforcement of child support or

1 maintenance, the amount of the cash deposit on the bond, less
2 outstanding costs, may be awarded to the person or entity to
3 whom the child support or maintenance is due. The deposit made
4 in accordance with paragraph (a) shall be applied to the
5 payment of costs. If judgment is entered and any amount of such
6 deposit remains after the payment of costs it shall be applied
7 to payment of the judgment and transferred to the treasury of
8 the municipal corporation wherein the bond was taken if the
9 offense was a violation of any penal ordinance of a political
10 subdivision of this State, or to the treasury of the county
11 wherein the bond was taken if the offense was a violation of
12 any penal statute of this State. The balance of the judgment
13 may be enforced and collected in the same manner as a judgment
14 entered in a civil action.

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

20 (i) When a court appearance is required for an alleged
21 violation of the Criminal Code of 1961, the Illinois Vehicle
22 Code, the Wildlife Code, the Fish and Aquatic Life Code, the
23 Child Passenger Protection Act, or a comparable offense of a
24 unit of local government as specified in Supreme Court Rule
25 551, and if the accused does not appear in court on the date
26 set for appearance or any date to which the case may be
27 continued and the court issues an arrest warrant for the
28 accused, based upon his or her failure to appear when having so
29 previously been ordered to appear by the court, the accused
30 upon his or her admission to bail shall be assessed by the
31 court a penalty of \$100. The penalty shall be in addition to
32 any bail that the accused is required to deposit for the
33 offense for which the accused has been charged and may not be
34 used for the payment of court costs or fines assessed for the

1 offense. The clerk of the court shall remit \$95 of the penalty
2 assessed to the arresting agency who brings the offender in on
3 the arrest warrant. The clerk of the court shall remit \$5 of
4 the penalty assessed to the Circuit Court Clerk Operation and
5 Administrative Fund as provided in Section 27.3d of the Clerks
6 of Courts Act.

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