



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB4400**

by Rep. Dennis M. Reboletti

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-7

from Ch. 38, par. 110-7

Amends the Code of Criminal Procedure of 1963. Provides that when a person is charged with battery, aggravated battery, domestic battery, aggravated domestic battery, violation of an order of protection, or other form of domestic violence and the victim is a family or household member, the victim of the offense may not furnish bail security for the person charged with the act of domestic violence for a period of 72 hours after the taking of the accused into custody for the act of domestic violence.

LRB095 14930 RLC 40875 b

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 Code of Criminal Procedure of 1963 is  
5 amended by changing Section 110-7 as follows:

6 (725 ILCS 5/110-7) (from Ch. 38, par. 110-7)

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

8 (a) The person for whom bail has been set shall execute the  
9 bail bond and deposit with the clerk of the court before which  
10 the proceeding is pending a sum of money equal to 10% of the  
11 bail, but in no event shall such deposit be less than \$25. The  
12 clerk of the court shall provide a space on each form for a  
13 person other than the accused who has provided the money for  
14 the posting of bail to so indicate and a space signed by an  
15 accused who has executed the bail bond indicating whether a  
16 person other than the accused has provided the money for the  
17 posting of bail. The form shall also include a written notice  
18 to such person who has provided the defendant with the money  
19 for the posting of bail indicating that the bail may be used to  
20 pay costs, attorney's fees, fines, or other purposes authorized  
21 by the court and if the defendant fails to comply with the  
22 conditions of the bail bond, the court shall enter an order  
23 declaring the bail to be forfeited. The written notice must be:

1 (1) distinguishable from the surrounding text; (2) in bold type  
2 or underscored; and (3) in a type size at least 2 points larger  
3 than the surrounding type. When a person for whom bail has been  
4 set is charged with an offense under the Illinois Controlled  
5 Substances Act or the Methamphetamine Control and Community  
6 Protection Act which is a Class X felony, the court may require  
7 the defendant to deposit a sum equal to 100% of the bail. Where  
8 any person is charged with a forcible felony while free on bail  
9 and is the subject of proceedings under Section 109-3 of this  
10 Code the judge conducting the preliminary examination may also  
11 conduct a hearing upon the application of the State pursuant to  
12 the provisions of Section 110-6 of this Code to increase or  
13 revoke the bail for that person's prior alleged offense.

14 When a person is charged with battery, aggravated battery,  
15 domestic battery, aggravated domestic battery, violation of an  
16 order of protection, or other form of domestic violence as  
17 defined in Section 112A-3 and the victim is a family or  
18 household member as defined in that Section, the victim of the  
19 offense may not furnish bail security for the person charged  
20 with the act of domestic violence for a period of 72 hours  
21 after the taking of the accused into custody for the act of  
22 domestic violence.

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

26 (c) Once bail has been given and a charge is pending or is

1 thereafter filed in or transferred to a court of competent  
2 jurisdiction the latter court shall continue the original bail  
3 in that court subject to the provisions of Section 110-6 of  
4 this Code.

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

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

14 (f) When the conditions of the bail bond have been  
15 performed and the accused has been discharged from all  
16 obligations in the cause the clerk of the court shall return to  
17 the accused or to the defendant's designee by an assignment  
18 executed at the time the bail amount is deposited, unless the  
19 court orders otherwise, 90% of the sum which had been deposited  
20 and shall retain as bail bond costs 10% of the amount  
21 deposited. However, in no event shall the amount retained by  
22 the clerk as bail bond costs be less than \$5. Bail bond  
23 deposited by or on behalf of a defendant in one case may be  
24 used, in the court's discretion, to satisfy financial  
25 obligations of that same defendant incurred in a different case  
26 due to a fine, court costs, restitution or fees of the

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

15 At the request of the defendant the court may order such  
16 90% of defendant's bail deposit, or whatever amount is  
17 repayable to defendant from such deposit, to be paid to  
18 defendant's attorney of record.

19 (g) If the accused does not comply with the conditions of  
20 the bail bond the court having jurisdiction shall enter an  
21 order declaring the bail to be forfeited. Notice of such order  
22 of forfeiture shall be mailed forthwith to the accused at his  
23 last known address. If the accused does not appear and  
24 surrender to the court having jurisdiction within 30 days from  
25 the date of the forfeiture or within such period satisfy the  
26 court that appearance and surrender by the accused is

1 impossible and without his fault the court shall enter judgment  
2 for the State if the charge for which the bond was given was a  
3 felony or misdemeanor, or if the charge was quasi-criminal or  
4 traffic, judgment for the political subdivision of the State  
5 which prosecuted the case, against the accused for the amount  
6 of the bail and costs of the court proceedings; however, in  
7 counties with a population of less than 3,000,000, instead of  
8 the court entering a judgment for the full amount of the bond  
9 the court may, in its discretion, enter judgment for the cash  
10 deposit on the bond, less costs, retain the deposit for further  
11 disposition or, if a cash bond was posted for failure to appear  
12 in a matter involving enforcement of child support or  
13 maintenance, the amount of the cash deposit on the bond, less  
14 outstanding costs, may be awarded to the person or entity to  
15 whom the child support or maintenance is due. The deposit made  
16 in accordance with paragraph (a) shall be applied to the  
17 payment of costs. If judgment is entered and any amount of such  
18 deposit remains after the payment of costs it shall be applied  
19 to payment of the judgment and transferred to the treasury of  
20 the municipal corporation wherein the bond was taken if the  
21 offense was a violation of any penal ordinance of a political  
22 subdivision of this State, or to the treasury of the county  
23 wherein the bond was taken if the offense was a violation of  
24 any penal statute of this State. The balance of the judgment  
25 may be enforced and collected in the same manner as a judgment  
26 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           (Source: P.A. 93-371, eff. 1-1-04; 93-760, eff. 1-1-05; 94-556,  
7           eff. 9-11-05.)