

SB0609



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0609

Introduced 2/8/2007, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-7

from Ch. 38, par. 110-7

Amends the Code of Criminal Procedure of 1963. Makes a technical change in a Section concerning the deposit of bail security.

LRB095 08314 RLC 28486 b

A BILL FOR

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 ~~the~~ bail bond and deposit with the clerk of the court before
10 which the proceeding is pending a sum of money equal to 10% of
11 the bail, but in no event shall such deposit be less than \$25.
12 The 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 (b) Upon depositing this sum and any bond fee authorized by
15 law, the person shall be released from custody subject to the
16 conditions of the bail bond.

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

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

25 (e) After the entry of an order by the trial court allowing
26 or denying bail pending appeal either party may apply to the

1 reviewing court having jurisdiction or to a justice thereof
2 sitting in vacation for an order increasing or decreasing the
3 amount of bail or allowing or denying bail pending appeal
4 subject to the provisions of Section 110-6.2.

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

1 deposited by or on behalf of a defendant in one case to be used
2 to satisfy financial obligations of that same defendant in a
3 different case until the bail bond is first used to satisfy
4 court costs in the case in which the bail bond has been
5 deposited.

6 At the request of the defendant the court may order such
7 90% of defendant's bail deposit, or whatever amount is
8 repayable to defendant from such deposit, to be paid to
9 defendant's attorney of record.

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

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

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

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