

1 AMENDMENT TO SENATE BILL 1127

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1127, AS AMENDED,  
3 in the introductory clause of Section 5 by deleting "and  
4 adding Section 16.5"; and

5 in Section 5, by deleting all of Sec. 16.5; and

6 by replacing all of Section 10 with the following:

7 "Section 10. If and only if House Bill 3504 of the 93rd  
8 General Assembly becomes law, the Code of Criminal Procedure  
9 of 1963 is amended by changing Section 110-7 as follows:

10 (725 ILCS 5/110-7) (from Ch. 38, par. 110-7)

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

12 (a) The person for whom bail has been set shall execute  
13 the bail bond and deposit with the clerk of the court before  
14 which the proceeding is pending a sum of money equal to 10%  
15 of the bail, but in no event shall such deposit be less than  
16 \$25. The clerk of the court shall provide a space on each  
17 form for a person other than the accused who has provided the  
18 money for the posting of bail to so indicate and a space  
19 signed by an accused who has executed the bail bond  
20 indicating whether a person other than the accused has  
21 provided the money for the posting of bail. The form shall

1 also include a written notice to such person who has provided  
2 the defendant with the money for the posting of bail  
3 indicating that the bail may be used to pay costs, attorney's  
4 fees, fines, or other purposes authorized by the court and if  
5 the defendant fails to comply with the conditions of the bail  
6 bond, the court shall enter an order declaring the bail to be  
7 forfeited. The written notice must be: (1) distinguishable  
8 from the surrounding text; (2) in bold type or underscored;  
9 and (3) in a type size at least 2 points larger than the  
10 surrounding type. When a person for whom bail has been set  
11 is charged with an offense under the "Illinois Controlled  
12 Substances Act" which is a Class X felony, the court may  
13 require the defendant to deposit a sum equal to 100% of the  
14 bail. Where any person is charged with a forcible felony  
15 while free on bail and is the subject of proceedings under  
16 Section 109-3 of this Code the judge conducting the  
17 preliminary examination may also conduct a hearing upon the  
18 application of the State pursuant to the provisions of  
19 Section 110-6 of this Code to increase or revoke the bail for  
20 that person's prior alleged offense.

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

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

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

32 (e) After the entry of an order by the trial court  
33 allowing or denying bail pending appeal either party may  
34 apply to the reviewing court having jurisdiction or to a

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

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

31 At the request of the defendant the court may order such  
32 90% of defendant's bail deposit, or whatever amount is  
33 repayable to defendant from such deposit, to be paid to  
34 defendant's attorney of record.

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

1 entered in a civil action.

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

7 (Source: P.A. 91-94, eff. 1-1-00; 91-183, eff. 1-1-00; 92-16,  
8 eff. 6-28-01; 93HB3504enr.)"; and

9 in subsection (d) of Sec. 706.3 of Section 15, by changing  
10 "Whenever" to "In counties with a population of 3,000,000 or  
11 more, whenever".