



Rep. Karen A. Yarbrough

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LRB097 03747 RLC 54247 a

1 AMENDMENT TO HOUSE BILL 927

2 AMENDMENT NO. _____. Amend House Bill 927 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Sections 110-7 and 110-8 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

1 posting of bail. The form shall also include a written notice
2 to such person who has provided the defendant with the money
3 for the posting of bail indicating that the bail may be used to
4 pay costs, attorney's fees, fines, or other purposes authorized
5 by the court and if the defendant fails to comply with the
6 conditions of the bail bond, the court shall enter an order
7 declaring the bail to be forfeited. The written notice must be:
8 (1) distinguishable from the surrounding text; (2) in bold type
9 or underscored; and (3) in a type size at least 2 points larger
10 than the surrounding type. When a person for whom bail has been
11 set is charged with an offense under the Illinois Controlled
12 Substances Act or the Methamphetamine Control and Community
13 Protection Act which is a Class X felony, or making a terrorist
14 threat in violation of Section 29D-20 of the Criminal Code of
15 1961 or an attempt to commit the offense of making a terrorist
16 threat, the court may require the defendant to deposit a sum
17 equal to 100% of the bail. Where any person is charged with a
18 forcible felony while free on bail and is the subject of
19 proceedings under Section 109-3 of this Code the judge
20 conducting the preliminary examination may also conduct a
21 hearing upon the application of the State pursuant to the
22 provisions of Section 110-6 of this Code to increase or revoke
23 the bail for that person's prior alleged offense.

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

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

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

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

15 (f) When the conditions of the bail bond have been
16 performed and the accused has been discharged from all
17 obligations in the cause the clerk of the court shall return to
18 the accused or to the defendant's designee by an assignment
19 executed at the time the bail amount is deposited, unless the
20 court orders otherwise, 85% ~~90%~~ of the sum which had been
21 deposited and shall retain as bail bond costs 15% ~~10%~~ of the
22 amount deposited. However, in no event shall the amount
23 retained by the clerk as bail bond costs be less than \$5. Bail
24 bond deposited by or on behalf of a defendant in one case may
25 be used, in the court's discretion, to satisfy financial
26 obligations of that same defendant incurred in a different case

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

16 At the request of the defendant the court may order such
17 85% ~~90%~~ of defendant's bail deposit, or whatever amount is
18 repayable to defendant from such deposit, to be paid to
19 defendant's attorney of record.

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

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

7 (i) When a court appearance is required for an alleged
8 violation of the Criminal Code of 1961, the Illinois Vehicle
9 Code, the Wildlife Code, the Fish and Aquatic Life Code, the
10 Child Passenger Protection Act, or a comparable offense of a
11 unit of local government as specified in Supreme Court Rule
12 551, and if the accused does not appear in court on the date
13 set for appearance or any date to which the case may be
14 continued and the court issues an arrest warrant for the
15 accused, based upon his or her failure to appear when having so
16 previously been ordered to appear by the court, the accused
17 upon his or her admission to bail shall be assessed by the
18 court a fee of \$75. The fee shall be in addition to any bail
19 that the accused is required to deposit for the offense for
20 which the accused has been charged and may not be used for the
21 payment of court costs or fines assessed for the offense. The
22 clerk of the court shall remit \$70 of the fee assessed to the
23 arresting agency who brings the offender in on the arrest
24 warrant. The clerk of the court shall remit \$5 of the fee
25 assessed to the Circuit Court Clerk Operation and
26 Administrative Fund as provided in Section 27.3d of the Clerks

1 of Courts Act.

2 (Source: P.A. 95-952, eff. 8-29-08; 96-1431, eff. 1-1-11.)

3 (725 ILCS 5/110-8) (from Ch. 38, par. 110-8)

4 Sec. 110-8. Cash, stocks, bonds and real estate as security
5 for bail.

6 (a) In lieu of the bail deposit provided for in Section
7 110-7 of this Code any person for whom bail has been set may
8 execute the bail bond with or without sureties which bond may
9 be secured:

10 (1) By a deposit, with the clerk of the court, of an amount
11 equal to the required bail, of cash, or stocks and bonds in
12 which trustees are authorized to invest trust funds under the
13 laws of this State; or

14 (2) By real estate situated in this State with unencumbered
15 equity not exempt owned by the accused or sureties worth double
16 the amount of bail set in the bond.

17 (b) If the bail bond is secured by stocks and bonds the
18 accused or sureties shall file with the bond a sworn schedule
19 which shall be approved by the court and shall contain:

20 (1) A list of the stocks and bonds deposited describing
21 each in sufficient detail that it may be identified;

22 (2) The market value of each stock and bond;

23 (3) The total market value of the stocks and bonds
24 listed;

25 (4) A statement that the affiant is the sole owner of

1 the stocks and bonds listed and they are not exempt from
2 the enforcement of a judgment thereon;

3 (5) A statement that such stocks and bonds have not
4 previously been used or accepted as bail in this State
5 during the 12 months preceding the date of the bail bond;
6 and

7 (6) A statement that such stocks and bonds are security
8 for the appearance of the accused in accordance with the
9 conditions of the bail bond.

10 (c) If the bail bond is secured by real estate the accused
11 or sureties shall file with the bond a sworn schedule which
12 shall contain:

13 (1) A legal description of the real estate;

14 (2) A description of any and all encumbrances on the
15 real estate including the amount of each and the holder
16 thereof;

17 (3) The market value of the unencumbered equity owned
18 by the affiant;

19 (4) A statement that the affiant is the sole owner of
20 such unencumbered equity and that it is not exempt from the
21 enforcement of a judgment thereon;

22 (5) A statement that the real estate has not previously
23 been used or accepted as bail in this State during the 12
24 months preceding the date of the bail bond; and

25 (6) A statement that the real estate is security for
26 the appearance of the accused in accordance with the

1 conditions of the bail bond.

2 (d) The sworn schedule shall constitute a material part of
3 the bail bond. The affiant commits perjury if in the sworn
4 schedule he makes a false statement which he does not believe
5 to be true. He shall be prosecuted and punished accordingly,
6 or, he may be punished for contempt.

7 (e) A certified copy of the bail bond and schedule of real
8 estate shall be filed immediately in the office of the
9 registrar of titles or recorder of the county in which the real
10 estate is situated and the State shall have a lien on such real
11 estate from the time such copies are filed in the office of the
12 registrar of titles or recorder. The registrar of titles or
13 recorder shall enter, index and record (or register as the case
14 may be) such bail bonds and schedules without requiring any
15 advance fee, which fee shall be taxed as costs in the
16 proceeding and paid out of such costs when collected.

17 (f) When the conditions of the bail bond have been
18 performed and the accused has been discharged from his
19 obligations in the cause, the clerk of the court shall retain
20 2% and return to him or his sureties the remainder of the
21 deposit of any cash, or shall return to him or her or his or her
22 sureties the deposit of any stocks or bonds. If the bail bond
23 has been secured by stocks, bonds, or real estate, the
24 defendant shall pay to the clerk of the court a document
25 storage fee pursuant to Section 27.3c of the Clerks of Courts
26 Act in advance of the return of the stocks, bonds, or real

1 estate. If the bail bond has been secured by real estate the
2 clerk of the court shall forthwith notify in writing the
3 registrar of titles or recorder and the lien of the bail bond
4 on the real estate shall be discharged. The clerk of the court
5 shall not retain any amount from the bail bond in child support
6 cases.

7 (g) If the accused does not comply with the conditions of
8 the bail bond the court having jurisdiction shall enter an
9 order declaring the bail to be forfeited. Notice of such order
10 of forfeiture shall be mailed forthwith by the clerk of the
11 court to the accused and his sureties at their last known
12 address. If the accused does not appear and surrender to the
13 court having jurisdiction within 30 days from the date of the
14 forfeiture or within such period satisfy the court that
15 appearance and surrender by the accused is impossible and
16 without his fault the court shall enter judgment for the State
17 against the accused and his sureties for the amount of the bail
18 and costs of the proceedings; however, in counties with a
19 population of less than 3,000,000, if the defendant has posted
20 a cash bond, instead of the court entering a judgment for the
21 full amount of the bond the court may, in its discretion, enter
22 judgment for the cash deposit on the bond, less costs, retain
23 the deposit for further disposition or, if a cash bond was
24 posted for failure to appear in a matter involving enforcement
25 of child support or maintenance, the amount of the cash deposit
26 on the bond, less outstanding costs, may be awarded to the

1 person or entity to whom the child support or maintenance is
2 due.

3 (h) When judgment is entered in favor of the State on any
4 bail bond given for a felony or misdemeanor, or judgement for a
5 political subdivision of the state on any bail bond given for a
6 quasi-criminal or traffic offense, the State's Attorney or
7 political subdivision's attorney shall forthwith obtain a
8 certified copy of the judgment and deliver same to the sheriff
9 to be enforced by levy on the stocks or bonds deposited with
10 the clerk of the court and the real estate described in the
11 bail bond schedule. Any cash forfeited under subsection (g) of
12 this Section shall be used to satisfy the judgment and costs
13 and, without necessity of levy, ordered paid into the treasury
14 of the municipal corporation wherein the bail bond was taken if
15 the offense was a violation of any penal ordinance of a
16 political subdivision of this State, or into the treasury of
17 the county wherein the bail bond was taken if the offense was a
18 violation of any penal statute of this State, or to the person
19 or entity to whom child support or maintenance is owed if the
20 bond was taken for failure to appear in a matter involving
21 child support or maintenance. The stocks, bonds and real estate
22 shall be sold in the same manner as in sales for the
23 enforcement of a judgment in civil actions and the proceeds of
24 such sale shall be used to satisfy all court costs, prior
25 encumbrances, if any, and from the balance a sufficient amount
26 to satisfy the judgment shall be paid into the treasury of the

1 municipal corporation wherein the bail bond was taken if the
2 offense was a violation of any penal ordinance of a political
3 subdivision of this State, or into the treasury of the county
4 wherein the bail bond was taken if the offense was a violation
5 of any penal statute of this State. The balance shall be
6 returned to the owner. The real estate so sold may be redeemed
7 in the same manner as real estate may be redeemed after
8 judicial sales or sales for the enforcement of judgments in
9 civil actions.

10 (i) No stocks, bonds or real estate may be used or accepted
11 as bail bond security in this State more than once in any 12
12 month period.

13 (Source: P.A. 89-469, eff. 1-1-97.)".