

1 AN ACT in relation to 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 and adding Section 110-19
6 as follows:

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

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

9 (a) The person for whom bail has been set shall execute
10 the bail bond and deposit with the clerk of the court before
11 which the proceeding is pending a sum of money equal to 10%
12 of the bail, but in no event shall such deposit be less than
13 \$25.

14 The clerk of the court shall provide a space on each form
15 for a person other than the accused who has provided the
16 money for the posting of bail to so indicate and a space
17 signed by an accused who has executed the bail bond
18 indicating whether a person other than the accused has
19 provided the money for the posting of bail. The form shall
20 also include a written notice to such person who has provided
21 the defendant with the money for the posting of bail
22 indicating that the bail may be used to pay costs, attorney's
23 fees, fines, or other purposes authorized by the court and if
24 the defendant fails to comply with the conditions of the bail
25 bond, the court shall enter an order declaring the bail to be
26 forfeited. The written notice must be: (1) distinguishable
27 from the surrounding text; (2) in bold type or underscored;
28 and (3) in a type size at least 2 points larger than the
29 surrounding type.

30 The bail bond form must also include a written notice to
31 the accused and, if applicable, to a person other than the

1 accused who has provided the money for the posting of bail
2 stating that the sum deposited as bail is subject to a lien
3 under Section 110-19 for any unpaid child support obligation
4 owed by the accused. This notice must include a space for
5 the accused or other person's signature acknowledging that
6 all or part of the sum deposited as bail may be seized as
7 provided in Section 110-19 to satisfy an unpaid child support
8 obligation owed by the accused, rather than returned to the
9 depositor.

10 When a person for whom bail has been set is charged with
11 an offense under the "Illinois Controlled Substances Act"
12 which is a Class X felony, the court may require the
13 defendant to deposit a sum equal to 100% of the bail. Where
14 any person is charged with a forcible felony while free on
15 bail and is the subject of proceedings under Section 109-3 of
16 this Code the judge conducting the preliminary examination
17 may also conduct a hearing upon the application of the State
18 pursuant to the provisions of Section 110-6 of this Code to
19 increase or revoke the bail for that person's prior alleged
20 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. The court shall
18 not order bail bond deposited by or on behalf of a defendant
19 in one case to be used to satisfy financial obligations of
20 that same defendant in a different case until the bail bond
21 is first used to satisfy court costs in the case in which the
22 bail bond has been deposited.

23 At the request of the defendant the court may order such
24 90% of defendant's bail deposit, or whatever amount is
25 repayable to defendant from such deposit, to be paid to
26 defendant's attorney of record.

27 (g) If the accused does not comply with the conditions
28 of the bail bond the court having jurisdiction shall enter an
29 order declaring the bail to be forfeited. Notice of such
30 order of forfeiture shall be mailed forthwith to the accused
31 at his last known address. If the accused does not appear
32 and surrender to the court having jurisdiction within 30 days
33 from the date of the forfeiture or within such period satisfy
34 the court that appearance and surrender by the accused is

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

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

33 (Source: P.A. 91-94, eff. 1-1-00; 91-183, eff. 1-1-00;
34 revised 10-7-99.)

1 (725 ILCS 5/110-19 new)

2 Sec. 110-19. Lien for child support. The balance of a
3 sum deposited as bail that is not retained by the clerk of
4 the court under subsection (f) of Section 7 is subject to a
5 lien in the amount of any unpaid child support obligation
6 owed by the accused pursuant to a court or administrative
7 order for child support entered by a court or administrative
8 tribunal of competent jurisdiction. The balance is subject
9 to this lien regardless of whether the sum was deposited by
10 the accused or by another person. Before the court
11 authorizes the return of any part of a sum deposited as bail,
12 the court shall determine whether the accused owes any unpaid
13 child support obligation pursuant to a court or
14 administrative order for child support entered by a court or
15 administrative tribunal of competent jurisdiction. If the
16 court determines that there is such an unpaid obligation, the
17 court shall order that as much of the balance not retained by
18 the clerk as is necessary to satisfy the unpaid obligation be
19 withheld from the person otherwise entitled to its return and
20 instead be transmitted to the person entitled to the unpaid
21 child support obligation according to the terms of the court
22 or administrative order for child support.