



Rep. Dennis M. Reboletti

Filed: 3/29/2011

09700HB2581ham001

LRB097 07363 RLC 53536 a

1 AMENDMENT TO HOUSE BILL 2581

2 AMENDMENT NO. _____. Amend House Bill 2581 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 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

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, 90% of the sum which had been deposited
21 and shall retain as bail bond costs 10% of the amount
22 deposited. However, in no event shall the amount retained by
23 the clerk as bail bond costs be less than \$5. Bail bond
24 deposited by or on behalf of a defendant in one case may be
25 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 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. Payment of the fee shall be a condition of
19 release unless otherwise ordered by the court. The fee shall be
20 in addition to any bail that the accused is required to deposit
21 for the offense for which the accused has been charged and may
22 not be used for the payment of court costs or fines assessed
23 for the offense. The clerk of the court shall remit \$70 of the
24 fee assessed to the arresting agency who brings the offender in
25 on the arrest warrant. The clerk of the court shall remit \$5 of
26 the fee assessed to the Circuit Court Clerk Operation and

1 Administrative Fund as provided in Section 27.3d of the Clerks
2 of Courts Act.

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