

HB2378



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2378

by Rep. Carol Ammons

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-7

from Ch. 38, par. 110-7

Amends the Code of Criminal Procedure of 1963. Provides that in no event shall the amount retained by the clerk as bail bond costs exceed \$100 (currently, this requirement is applicable only to counties with a population of 3,000,000 or more).

LRB101 04785 SLF 49794 b

FISCAL NOTE ACT
MAY APPLY

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 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
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, or making a terrorist
7 threat in violation of Section 29D-20 of the Criminal Code of
8 1961 or the Criminal Code of 2012 or an attempt to commit the
9 offense of making a terrorist threat, the court may require the
10 defendant to deposit a sum equal to 100% of the bail. Where any
11 person is charged with a forcible felony while free on bail and
12 is the subject of proceedings under Section 109-3 of this Code
13 the judge conducting the preliminary examination may also
14 conduct a hearing upon the application of the State pursuant to
15 the provisions of Section 110-6 of this Code to increase or
16 revoke the bail for that person's prior alleged offense.

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

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

25 (d) After conviction the court may order that the original
26 bail stand as bail pending appeal or deny, increase or reduce

1 bail subject to the provisions of Section 110-6.2.

2 (e) After the entry of an order by the trial court allowing
3 or denying bail pending appeal either party may apply to the
4 reviewing court having jurisdiction or to a justice thereof
5 sitting in vacation for an order increasing or decreasing the
6 amount of bail or allowing or denying bail pending appeal
7 subject to the provisions of Section 110-6.2.

8 (f) When the conditions of the bail bond have been
9 performed and the accused has been discharged from all
10 obligations in the cause the clerk of the court shall return to
11 the accused or to the defendant's designee by an assignment
12 executed at the time the bail amount is deposited, unless the
13 court orders otherwise, 90% of the sum which had been deposited
14 and shall retain as bail bond costs 10% of the amount
15 deposited. However, in no event shall the amount retained by
16 the clerk as bail bond costs be less than \$5. Notwithstanding
17 the foregoing, ~~in counties with a population of 3,000,000 or~~
18 ~~more,~~ in no event shall the amount retained by the clerk as
19 bail bond costs exceed \$100. Bail bond deposited by or on
20 behalf of a defendant in one case may be used, in the court's
21 discretion, to satisfy financial obligations of that same
22 defendant incurred in a different case due to a fine, court
23 costs, restitution or fees of the defendant's attorney of
24 record. In counties with a population of 3,000,000 or more, the
25 court shall not order bail bond deposited by or on behalf of a
26 defendant in one case to be used to satisfy financial

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

11 At the request of the defendant the court may order such
12 90% of defendant's bail deposit, or whatever amount is
13 repayable to defendant from such deposit, to be paid to
14 defendant's attorney of record.

15 (g) If the accused does not comply with the conditions of
16 the bail bond the court having jurisdiction shall enter an
17 order declaring the bail to be forfeited. Notice of such order
18 of forfeiture shall be mailed forthwith to the accused at his
19 last known address. If the accused does not appear and
20 surrender to the court having jurisdiction within 30 days from
21 the date of the forfeiture or within such period satisfy the
22 court that appearance and surrender by the accused is
23 impossible and without his fault the court shall enter judgment
24 for the State if the charge for which the bond was given was a
25 felony or misdemeanor, or if the charge was quasi-criminal or
26 traffic, judgment for the political subdivision of the State

1 which prosecuted the case, against the accused for the amount
2 of the bail and costs of the court proceedings; however, in
3 counties with a population of less than 3,000,000, instead of
4 the court entering a judgment for the full amount of the bond
5 the court may, in its discretion, enter judgment for the cash
6 deposit on the bond, less costs, retain the deposit for further
7 disposition or, if a cash bond was posted for failure to appear
8 in a matter involving enforcement of child support or
9 maintenance, the amount of the cash deposit on the bond, less
10 outstanding costs, may be awarded to the person or entity to
11 whom the child support or maintenance is due. The deposit made
12 in accordance with paragraph (a) shall be applied to the
13 payment of costs. If judgment is entered and any amount of such
14 deposit remains after the payment of costs it shall be applied
15 to payment of the judgment and transferred to the treasury of
16 the municipal corporation wherein the bond was taken if the
17 offense was a violation of any penal ordinance of a political
18 subdivision of this State, or to the treasury of the county
19 wherein the bond was taken if the offense was a violation of
20 any penal statute of this State. The balance of the judgment
21 may be enforced and collected in the same manner as a judgment
22 entered in a civil action.

23 (h) After a judgment for a fine and court costs or either
24 is entered in the prosecution of a cause in which a deposit had
25 been made in accordance with paragraph (a) the balance of such
26 deposit, after deduction of bail bond costs, shall be applied

1 to the payment of the judgment.

2 (i) When a court appearance is required for an alleged
3 violation of the Criminal Code of 1961, the Criminal Code of
4 2012, the Illinois Vehicle Code, the Wildlife Code, the Fish
5 and Aquatic Life Code, the Child Passenger Protection Act, or a
6 comparable offense of a unit of local government as specified
7 in Supreme Court Rule 551, and if the accused does not appear
8 in court on the date set for appearance or any date to which
9 the case may be continued and the court issues an arrest
10 warrant for the accused, based upon his or her failure to
11 appear when having so previously been ordered to appear by the
12 court, the accused upon his or her admission to bail shall be
13 assessed by the court a fee of \$75. Payment of the fee shall be
14 a condition of release unless otherwise ordered by the court.
15 The fee shall be in addition to any bail that the accused is
16 required to deposit for the offense for which the accused has
17 been charged and may not be used for the payment of court costs
18 or fines assessed for the offense. The clerk of the court shall
19 remit \$70 of the fee assessed to the arresting agency who
20 brings the offender in on the arrest warrant. If the Department
21 of State Police is the arresting agency, \$70 of the fee
22 assessed shall be remitted by the clerk of the court to the
23 State Treasurer within one month after receipt for deposit into
24 the State Police Operations Assistance Fund. The clerk of the
25 court shall remit \$5 of the fee assessed to the Circuit Court
26 Clerk Operation and Administrative Fund as provided in Section

- 1 27.3d of the Clerks of Courts Act.
- 2 (Source: P.A. 99-412, eff. 1-1-16.)