

HB3561



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3561

Introduced 2/22/2021, by Rep. Dan Ugaste

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-7

from Ch. 38, par. 110-7

Amends the Code of Criminal Procedure of 1963. Provides that if the defendant is acquitted, the court shall order 100% of the defendant's bail deposit returned to the defendant or to the defendant's designee by an assignment executed at the time the bail amount is deposited. Deletes provision that in no event shall the amount retained by the clerk of the court as bail bond costs be less than \$5 and deletes in counties with a population of 3,000,000 or more in no event shall the amount retained by the clerk of the court as bail bond costs exceed \$100.

LRB102 11669 KMF 17003 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
21 authorized by the court and if the defendant fails to comply
22 with the conditions of the bail bond, the court shall enter an
23 order declaring the bail to be forfeited. The written notice

1 must be: (1) distinguishable from the surrounding text; (2) in
2 bold type or underscored; and (3) in a type size at least 2
3 points larger than the surrounding type. When a person for
4 whom bail has been set is charged with an offense under the
5 Illinois Controlled Substances Act or the Methamphetamine
6 Control and Community Protection Act which is a Class X
7 felony, or making a terrorist threat in violation of Section
8 29D-20 of the Criminal Code of 1961 or the Criminal Code of
9 2012 or an attempt to commit the offense of making a terrorist
10 threat, the court may require the defendant to deposit a sum
11 equal to 100% of the bail. Where any person is charged with a
12 forcible felony while free on bail and is the subject of
13 proceedings under Section 109-3 of this Code the judge
14 conducting the preliminary examination may also conduct a
15 hearing upon the application of the State pursuant to the
16 provisions of Section 110-6 of this Code to increase or revoke
17 the bail for that person's prior alleged offense.

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

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

26 (d) After conviction the court may order that the original

1 bail stand as bail pending appeal or deny, increase or reduce
2 bail subject to the provisions of Section 110-6.2.

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

9 (f) (1) This paragraph (1) applies in cases other than the
10 acquittal of the defendant. When the conditions of the bail
11 bond have been performed and the accused has been discharged
12 from all obligations in the cause the clerk of the court shall
13 return to the accused or to the defendant's designee by an
14 assignment executed at the time the bail amount is deposited,
15 unless the court orders otherwise, 90% of the sum which had
16 been deposited and shall retain as bail bond costs 10% of the
17 amount deposited. ~~However, in no event shall the amount~~
18 ~~retained by the clerk as bail bond costs be less than \$5.~~
19 ~~Notwithstanding the foregoing, in counties with a population~~
20 ~~of 3,000,000 or more, in no event shall the amount retained by~~
21 ~~the clerk as bail bond costs exceed \$100.~~ Bail bond deposited
22 by or on behalf of a defendant in one case may be used, in the
23 court's discretion, to satisfy financial obligations of that
24 same defendant incurred in a different case due to a fine,
25 court costs, restitution or fees of the defendant's attorney
26 of record. In counties with a population of 3,000,000 or more,

1 the court shall not order bail bond deposited by or on behalf
2 of a defendant in one case to be used to satisfy financial
3 obligations of that same defendant in a different case until
4 the bail bond is first used to satisfy court costs and
5 attorney's fees in the case in which the bail bond has been
6 deposited and any other unpaid child support obligations are
7 satisfied. In counties with a population of less than
8 3,000,000, the court shall not order bail bond deposited by or
9 on behalf of a defendant in one case to be used to satisfy
10 financial obligations of that same defendant in a different
11 case until the bail bond is first used to satisfy court costs
12 in the case in which the bail bond has been deposited. At the
13 request of the defendant the court may order such 90% of
14 defendant's bail deposit, or whatever amount is repayable to
15 defendant from such deposit, to be paid to defendant's
16 attorney of record.

17 (2) This paragraph (2) applies in cases of the acquittal
18 of the defendant. If the defendant is acquitted, the court
19 shall order 100% of the defendant's bail deposit returned to
20 the defendant or to the defendant's designee by an assignment
21 executed at the time the bail amount is deposited.

22 (g) If the accused does not comply with the conditions of
23 the bail bond the court having jurisdiction shall enter an
24 order declaring the bail to be forfeited. Notice of such order
25 of forfeiture shall be mailed forthwith to the accused at his
26 last known address. If the accused does not appear and

1 surrender to the court having jurisdiction within 30 days from
2 the date of the forfeiture or within such period satisfy the
3 court that appearance and surrender by the accused is
4 impossible and without his fault the court shall enter
5 judgment for the State if the charge for which the bond was
6 given was a felony or misdemeanor, or if the charge was
7 quasi-criminal or traffic, judgment for the political
8 subdivision of the State which prosecuted the case, against
9 the accused for the amount of the bail and costs of the court
10 proceedings; however, in counties with a population of less
11 than 3,000,000, instead of the court entering a judgment for
12 the full amount of the bond the court may, in its discretion,
13 enter judgment for the cash deposit on the bond, less costs,
14 retain the deposit for further disposition or, if a cash bond
15 was posted for failure to appear in a matter involving
16 enforcement of child support or maintenance, the amount of the
17 cash deposit on the bond, less outstanding costs, may be
18 awarded to the person or entity to whom the child support or
19 maintenance is due. The deposit made in accordance with
20 paragraph (a) shall be applied to the payment of costs. If
21 judgment is entered and any amount of such deposit remains
22 after the payment of costs it shall be applied to payment of
23 the judgment and transferred to the treasury of the municipal
24 corporation wherein the bond was taken if the offense was a
25 violation of any penal ordinance of a political subdivision of
26 this State, or to the treasury of the county wherein the bond

1 was taken if the offense was a violation of any penal statute
2 of this State. The balance of the judgment may be enforced and
3 collected in the same manner as a judgment entered in a civil
4 action.

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

10 (i) When a court appearance is required for an alleged
11 violation of the Criminal Code of 1961, the Criminal Code of
12 2012, the Illinois Vehicle Code, the Wildlife Code, the Fish
13 and Aquatic Life Code, the Child Passenger Protection Act, or
14 a comparable offense of a unit of local government as
15 specified in Supreme Court Rule 551, and if the accused does
16 not appear in court on the date set for appearance or any date
17 to which the case may be continued and the court issues an
18 arrest warrant for the accused, based upon his or her failure
19 to appear when having so previously been ordered to appear by
20 the court, the accused upon his or her admission to bail shall
21 be assessed by the court a fee of \$75. Payment of the fee shall
22 be a condition of release unless otherwise ordered by the
23 court. The fee shall be in addition to any bail that the
24 accused is required to deposit for the offense for which the
25 accused has been charged and may not be used for the payment of
26 court costs or fines assessed for the offense. The clerk of the

1 court shall remit \$70 of the fee assessed to the arresting
2 agency who brings the offender in on the arrest warrant. If the
3 Department of State Police is the arresting agency, \$70 of the
4 fee assessed shall be remitted by the clerk of the court to the
5 State Treasurer within one month after receipt for deposit
6 into the State Police Operations Assistance Fund. The clerk of
7 the court shall remit \$5 of the fee assessed to the Circuit
8 Court Clerk Operation and Administrative Fund as provided in
9 Section 27.3d of the Clerks of Courts Act.

10 (Source: P.A. 99-412, eff. 1-1-16.)