



Judiciary II - Criminal Law Committee

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09500SB1348ham001

LRB095 07058 RLC 36404 a

1 AMENDMENT TO SENATE BILL 1348

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1348 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, the court may require  
14 the defendant to deposit a sum equal to 100% of the bail. Where  
15 any person is charged with a forcible felony while free on bail  
16 and is the subject of proceedings under Section 109-3 of this  
17 Code the judge conducting the preliminary examination may also  
18 conduct a hearing upon the application of the State pursuant to  
19 the provisions of Section 110-6 of this Code to increase or  
20 revoke the bail for that person's prior alleged offense.

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

24 (c) Once bail has been given and a charge is pending or is  
25 thereafter filed in or transferred to a court of competent  
26 jurisdiction the latter court shall continue the original bail

1 in that court subject to the provisions of Section 110-6 of  
2 this Code.

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

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

12 (f) When the conditions of the bail bond have been  
13 performed and the accused has been discharged from all  
14 obligations in the cause the clerk of the court shall return to  
15 the accused or to the defendant's designee by an assignment  
16 executed at the time the bail amount is deposited, unless the  
17 court orders otherwise, 80% ~~90%~~ of the sum which had been  
18 deposited for bail bonds not exceeding \$30,000 and 90% of the  
19 sum which had been deposited for bail bonds exceeding \$30,000  
20 and shall retain as bail bond costs 10% of the amount  
21 deposited. However, in no event shall the amount retained by  
22 the clerk as bail bond costs be less than \$5. Of the remaining  
23 10%, the Circuit Court Clerk shall retain \$1 to be deposited  
24 into the Circuit Court Clerk Operation and Administrative Fund.  
25 Of the remaining 10% of the amount deposited, the Circuit Court  
26 Clerk shall remit 70% to the sheriff for bail bond costs and

1 30% to the State's Attorney for bail bond costs. Bail bond  
2 deposited by or on behalf of a defendant in one case may be  
3 used, in the court's discretion, to satisfy financial  
4 obligations of that same defendant incurred in a different case  
5 due to a fine, court costs, restitution or fees of the  
6 defendant's attorney of record. In counties with a population  
7 of 3,000,000 or more, the court shall not order bail bond  
8 deposited by or on behalf of a defendant in one case to be used  
9 to satisfy financial obligations of that same defendant in a  
10 different case until the bail bond is first used to satisfy  
11 court costs and attorney's fees in the case in which the bail  
12 bond has been deposited and any other unpaid child support  
13 obligations are satisfied. In counties with a population of  
14 less than 3,000,000, the court shall not order bail bond  
15 deposited by or on behalf of a defendant in one case to be used  
16 to satisfy financial obligations of that same defendant in a  
17 different case until the bail bond is first used to satisfy  
18 court costs in the case in which the bail bond has been  
19 deposited.

20 At the request of the defendant the court may order such  
21 80% ~~90%~~ of defendant's bail deposit, or whatever amount is  
22 repayable to defendant from such deposit, to be paid to  
23 defendant's attorney of record.

24 (g) If the accused does not comply with the conditions of  
25 the bail bond the court having jurisdiction shall enter an  
26 order declaring the bail to be forfeited. Notice of such order

1 of forfeiture shall be mailed forthwith to the accused at his  
2 last known address. If the accused does not appear and  
3 surrender to the court having jurisdiction within 30 days from  
4 the date of the forfeiture or within such period satisfy the  
5 court that appearance and surrender by the accused is  
6 impossible and without his fault the court shall enter judgment  
7 for the State if the charge for which the bond was given was a  
8 felony or misdemeanor, or if the charge was quasi-criminal or  
9 traffic, judgment for the political subdivision of the State  
10 which prosecuted the case, against the accused for the amount  
11 of the bail and costs of the court proceedings; however, in  
12 counties with a population of less than 3,000,000, instead of  
13 the court entering a judgment for the full amount of the bond  
14 the court may, in its discretion, enter judgment for the cash  
15 deposit on the bond, less costs, retain the deposit for further  
16 disposition or, if a cash bond was posted for failure to appear  
17 in a matter involving enforcement of child support or  
18 maintenance, the amount of the cash deposit on the bond, less  
19 outstanding costs, may be awarded to the person or entity to  
20 whom the child support or maintenance is due. The deposit made  
21 in accordance with paragraph (a) shall be applied to the  
22 payment of costs. If judgment is entered and any amount of such  
23 deposit remains after the payment of costs it shall be applied  
24 to payment of the judgment and transferred to the treasury of  
25 the municipal corporation wherein the bond was taken if the  
26 offense was a violation of any penal ordinance of a political

1 subdivision of this State, or to the treasury of the county  
2 wherein the bond was taken if the offense was a violation of  
3 any penal statute of this State. The balance of the judgment  
4 may be enforced and collected in the same manner as a judgment  
5 entered in a civil action.

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

11 (Source: P.A. 93-371, eff. 1-1-04; 93-760, eff. 1-1-05; 94-556,  
12 eff. 9-11-05.)

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law."