



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB6141

Introduced 2/11/2010, by Rep. Chapin Rose

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-7

from Ch. 38, par. 110-7

Amends the Code of Criminal Procedure of 1963. Provides that when a court appearance is required for an alleged violation of the Criminal Code of 1961, the Illinois Vehicle Code, the Wildlife Code, the Fish and Aquatic Life Code, the Child Passenger Protection Act, or a comparable violation of an ordinance of a unit of local government, as specified in Supreme Court Rule 551, and if the accused does not appear in court on the date set for appearance or any date to which the case may be continued and the court issues an arrest warrant for the accused, based upon his or her failure to appear when having so previously been ordered to appear by the court, the accused upon his or her admission to bail shall be assessed by the court a penalty of \$100. Provides that the penalty shall be in addition to any bail that the accused is required to deposit for the offense for which the accused has been charged and may not be used for the payment of court costs or fines assessed for the offense. Provides that the clerk of the court shall remit \$95 of the penalty assessed to the arresting agency who brings the offender in on the arrest warrant. Provides that the clerk of the court shall remit \$5 of the penalty assessed to the Circuit Court Clerk Operation and Administrative Fund.

LRB096 18836 RLC 34222 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 an attempt to commit the offense of making a terrorist
9 threat, the court may require the defendant to deposit a sum
10 equal to 100% of the bail. Where any person is charged with a
11 forcible felony while free on bail and is the subject of
12 proceedings under Section 109-3 of this Code the judge
13 conducting the preliminary examination may also conduct a
14 hearing upon the application of the State pursuant to the
15 provisions of Section 110-6 of this Code to increase or revoke
16 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. Bail bond
17 deposited by or on behalf of a defendant in one case may be
18 used, in the court's discretion, to satisfy financial
19 obligations of that same defendant incurred in a different case
20 due to a fine, court costs, restitution or fees of the
21 defendant's attorney of record. In counties with a population
22 of 3,000,000 or more, the court shall not order bail bond
23 deposited by or on behalf of a defendant in one case to be used
24 to satisfy financial obligations of that same defendant in a
25 different case until the bail bond is first used to satisfy
26 court costs and attorney's fees in the case in which the bail

1 bond has been deposited and any other unpaid child support
2 obligations are satisfied. In counties with a population of
3 less than 3,000,000, 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 in the case in which the bail bond has been
8 deposited.

9 At the request of the defendant the court may order such
10 90% of defendant's bail deposit, or whatever amount is
11 repayable to defendant from such deposit, to be paid to
12 defendant's attorney of record.

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

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

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

26 (i) When a court appearance is required for an alleged

1 violation of the Criminal Code of 1961, the Illinois Vehicle
2 Code, the Wildlife Code, the Fish and Aquatic Life Code, the
3 Child Passenger Protection Act, or a comparable violation of an
4 ordinance of a unit of local government, as specified in
5 Supreme Court Rule 551, and if the accused does not appear in
6 court on the date set for appearance or any date to which the
7 case may be continued and the court issues an arrest warrant
8 for the accused, based upon his or her failure to appear when
9 having so previously been ordered to appear by the court, the
10 accused upon his or her admission to bail shall be assessed by
11 the court a penalty of \$100. The penalty shall be in addition
12 to any bail that the accused is required to deposit for the
13 offense for which the accused has been charged and may not be
14 used for the payment of court costs or fines assessed for the
15 offense. The clerk of the court shall remit \$95 of the penalty
16 assessed to the arresting agency who brings the offender in on
17 the arrest warrant. The clerk of the court shall remit \$5 of
18 the penalty assessed to the Circuit Court Clerk Operation and
19 Administrative Fund as provided in Section 27.3d of the Clerks
20 of Courts Act.

21 (Source: P.A. 94-556, eff. 9-11-05; 95-952, eff. 8-29-08.)