

**SB2870**



**97TH GENERAL ASSEMBLY**

**State of Illinois**

**2011 and 2012**

**SB2870**

Introduced 2/1/2012, by Sen. Mike Jacobs

**SYNOPSIS AS INTRODUCED:**

725 ILCS 5/110-7

from Ch. 38, par. 110-7

Amends the Code of Criminal Procedure of 1963. Provides that a person for whom bail has been set may execute the bail bond by depositing with the clerk of the court before which the proceeding is pending a surety bond in an amount equal to 25% of the bail, executed by a surety approved by the court.

LRB097 16338 RLC 61493 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 either: (1) a sum of money equal to  
11 10% of the bail, but in no event shall such deposit be less  
12 than \$25; or (2) a surety bond in an amount equal to 25% of the  
13 bail, executed by a surety approved by the court. The clerk of  
14 the court shall provide a space on each form for a person other  
15 than the accused who has provided the money for the posting of  
16 bail to so indicate and a space signed by an accused who has  
17 executed the bail bond indicating whether a person other than  
18 the accused has provided the money for the posting of bail. The  
19 form shall also include a written notice to such person who has  
20 provided the defendant with the money for the posting of bail  
21 indicating that the bail may be used to pay costs, attorney's  
22 fees, fines, or other purposes authorized by the court and if  
23 the defendant fails to comply with the conditions of the bail

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

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

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

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

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

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

1 different case until the bail bond is first used to satisfy  
2 court costs and attorney's fees in the case in which the bail  
3 bond has been deposited and any other unpaid child support  
4 obligations are satisfied. In counties with a population of  
5 less than 3,000,000, the court shall not order bail bond  
6 deposited by or on behalf of a defendant in one case to be used  
7 to satisfy financial obligations of that same defendant in a  
8 different case until the bail bond is first used to satisfy  
9 court costs in the case in which the bail bond has been  
10 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 Illinois Vehicle  
4 Code, the Wildlife Code, the Fish and Aquatic Life Code, the  
5 Child Passenger Protection Act, or a comparable offense of a  
6 unit of local government as specified in Supreme Court Rule  
7 551, and if the accused does not appear in court on the date  
8 set for appearance or any date to which the case may be  
9 continued and the court issues an arrest warrant for the  
10 accused, based upon his or her failure to appear when having so  
11 previously been ordered to appear by the court, the accused  
12 upon his or her admission to bail shall be assessed by the  
13 court a fee of \$75. Payment of the fee shall be a condition of  
14 release unless otherwise ordered by the court. The fee shall be  
15 in addition to any bail that the accused is required to deposit  
16 for the offense for which the accused has been charged and may  
17 not be used for the payment of court costs or fines assessed  
18 for the offense. The clerk of the court shall remit \$70 of the  
19 fee assessed to the arresting agency who brings the offender in  
20 on the arrest warrant. If the Department of State Police is the  
21 arresting agency, \$70 of the fee assessed shall be remitted by  
22 the clerk of the court to the State Treasurer within one month  
23 after receipt for deposit into the State Police Operations  
24 Assistance Fund. The clerk of the court shall remit \$5 of the  
25 fee assessed to the Circuit Court Clerk Operation and  
26 Administrative Fund as provided in Section 27.3d of the Clerks

1 of Courts Act.

2 (Source: P.A. 96-1431, eff. 1-1-11; 97-175, eff. 1-1-12.)