

HB4278



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4278

by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-7	from Ch. 38, par. 110-7
725 ILCS 5/110-15	from Ch. 38, par. 110-15

Amends the Code of Criminal Procedure of 1963. Provides that if the offense for which bail has been set is not a violent crime as defined in the Rights of Crime Victims and Witnesses Act, the amount of bail required to be deposited with the clerk of the court may, in the discretion of the court, be an amount less than 10% of the bail (rather than 10% of the bail).

LRB099 13913 RLC 37905 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 Sections 110-7 and 110-15 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 if
12 the offense for which bail has been set is a violent crime as
13 defined in subsection (c) of Section 3 of the Rights of Crime
14 Victims and Witnesses Act. If the offense for which bail has
15 been set is not a violent crime as defined in subsection (c) of
16 Section 3 of the Rights of Crime Victims and Witnesses Act, the
17 amount of bail required to be deposited with the clerk of the
18 court may, in the discretion of the court, be an amount less
19 than 10% of the bail. The clerk of the court shall provide a
20 space on each form for a person other than the accused who has
21 provided the money for the posting of bail to so indicate and a
22 space signed by an accused who has executed the bail bond
23 indicating whether a person other than the accused has provided

1 the money for the posting of bail. The form shall also include
2 a written notice to such person who has provided the defendant
3 with the money for the posting of bail indicating that the bail
4 may be used to pay costs, attorney's fees, fines, or other
5 purposes authorized by the court and if the defendant fails to
6 comply with the conditions of the bail bond, the court shall
7 enter an order declaring the bail to be forfeited. The written
8 notice must be: (1) distinguishable from the surrounding text;
9 (2) in bold type or underscored; and (3) in a type size at
10 least 2 points larger than the surrounding type. When a person
11 for whom bail has been set is charged with ~~an offense under the~~
12 ~~Illinois Controlled Substances Act or the Methamphetamine~~
13 ~~Control and Community Protection Act which is a Class X felony,~~
14 ~~or~~ making a terrorist threat in violation of Section 29D-20 of
15 the Criminal Code of 1961 or the Criminal Code of 2012 or an
16 attempt to commit the offense of making a terrorist threat, the
17 court may require the defendant to deposit a sum equal to 100%
18 of the bail. Where any person is charged with a forcible felony
19 while free on bail and is the subject of proceedings under
20 Section 109-3 of this Code the judge conducting the preliminary
21 examination may also conduct a hearing upon the application of
22 the State pursuant to the provisions of Section 110-6 of this
23 Code to increase or revoke the bail for that person's prior
24 alleged offense.

25 (b) Upon depositing this sum and any bond fee authorized by
26 law, the person shall be released from custody subject to the

1 conditions of the bail bond.

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

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

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

16 (f) When the conditions of the bail bond have been
17 performed and the accused has been discharged from all
18 obligations in the cause the clerk of the court shall return to
19 the accused or to the defendant's designee by an assignment
20 executed at the time the bail amount is deposited, unless the
21 court orders otherwise, 90% of the sum which had been deposited
22 and shall retain as bail bond costs 10% of the amount
23 deposited. However, in no event shall the amount retained by
24 the clerk as bail bond costs be less than \$5. Bail bond
25 deposited by or on behalf of a defendant in one case may be
26 used, in the court's discretion, to satisfy financial

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

17 At the request of the defendant the court may order such
18 90% of defendant's bail deposit, or whatever amount is
19 repayable to defendant from such deposit, to be paid to
20 defendant's attorney of record.

21 (g) If the accused does not comply with the conditions of
22 the bail bond the court having jurisdiction shall enter an
23 order declaring the bail to be forfeited. Notice of such order
24 of forfeiture shall be mailed forthwith to the accused at his
25 last known address. If the accused does not appear and
26 surrender to the court having jurisdiction within 30 days from

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

1 may be enforced and collected in the same manner as a judgment
2 entered in a civil action.

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

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

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

8 (Source: P.A. 96-1431, eff. 1-1-11; 97-175, eff. 1-1-12;
9 97-1150, eff. 1-25-13.)

10 (725 ILCS 5/110-15) (from Ch. 38, par. 110-15)

11 Sec. 110-15. Applicability of provisions for giving and
12 taking bail. The provisions of Sections 110-7 and 110-8 of this
13 Code are exclusive of other provisions of law for the giving,
14 taking, or enforcement of bail. In all cases where a person is
15 admitted to bail the provisions of Sections 110-7 and 110-8 of
16 this Code shall be applicable.

17 However, the Supreme Court may, by rule or order, prescribe
18 a uniform schedule of amounts of bail if the offenses are
19 violent crimes classified as misdemeanors ~~in all but felony~~
20 ~~offenses~~. The uniform schedule shall not require a person cited
21 for violating the Illinois Vehicle Code or a similar provision
22 of a local ordinance for which a violation is a petty offense
23 as defined by Section 5-1-17 of the Unified Code of
24 Corrections, excluding business offenses as defined by Section
25 5-1-2 of the Unified Code of Corrections or a violation of

1 Section 15-111 or subsection (d) of Section 3-401 of the
2 Illinois Vehicle Code, to post bond to secure bail for his or
3 her release. Such uniform schedule may provide that the cash
4 deposit provisions of Section 110-7 shall not apply to bail
5 amounts established for alleged violations punishable by fine
6 alone, and the schedule may further provide that in specified
7 traffic cases a valid Illinois chauffeur's or operator's
8 license must be deposited, in addition to 10% of the amount of
9 the bail specified in the schedule.

10 (Source: P.A. 98-870, eff. 1-1-15; 98-1134, eff. 1-1-15.)