

HB4497



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4497

Introduced 2/4/2020, 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.

LRB101 17527 RLC 66942 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 the Criminal Code of 2012 or an attempt to commit the
9 offense of making a terrorist threat, the court may require the
10 defendant to deposit a sum equal to 100% of the bail. Where any
11 person is charged with a forcible felony while free on bail and
12 is the subject of proceedings under Section 109-3 of this Code
13 the judge conducting the preliminary examination may also
14 conduct a hearing upon the application of the State pursuant to
15 the provisions of Section 110-6 of this Code to increase or
16 revoke 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) (1) This paragraph (1) applies in cases other than the
9 acquittal of the defendant. When the conditions of the bail
10 bond have been performed and the accused has been discharged
11 from all obligations in the cause the clerk of the court shall
12 return to the accused or to the defendant's designee by an
13 assignment executed at the time the bail amount is deposited,
14 unless the court orders otherwise, 90% of the sum which had
15 been deposited and shall retain as bail bond costs 10% of the
16 amount deposited. ~~However, in no event shall the amount~~
17 ~~retained by the clerk as bail bond costs be less than \$5.~~
18 ~~Notwithstanding the foregoing, in counties with a population of~~
19 ~~3,000,000 or more, in no event shall the amount retained by the~~
20 ~~clerk as bail bond costs exceed \$100.~~ Bail bond deposited by or
21 on behalf of a defendant in one case may be used, in the
22 court's discretion, to satisfy financial obligations of that
23 same defendant incurred in a different case due to a fine,
24 court costs, restitution or fees of the defendant's attorney of
25 record. In counties with a population of 3,000,000 or more, the
26 court shall not order bail bond deposited by or on behalf of a

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

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

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. 99-412, eff. 1-1-16.)