

# SB1348



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB1348

Introduced 2/9/2007, by Sen. Antonio Munoz

#### 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 the conditions of the bail bond have been performed and the accused has been discharged from all obligations in the cause, the clerk of the court shall return to the accused or to the defendant's designee, 80% (rather than 90%) of the sum which had been deposited and shall retain as bail bond costs 10% of the amount deposited. Provides that the county sheriff shall retain the remaining 10% of the amount deposited for sheriff's office operations. Provides that in no event shall the amount retained by the sheriff as sheriff's office operations be less than \$5. Effective immediately.

LRB095 07058 RLC 28363 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, the court may require  
7 the defendant to deposit a sum equal to 100% of the bail. Where  
8 any person is charged with a forcible felony while free on bail  
9 and is the subject of proceedings under Section 109-3 of this  
10 Code the judge conducting the preliminary examination may also  
11 conduct a hearing upon the application of the State pursuant to  
12 the provisions of Section 110-6 of this Code to increase or  
13 revoke the bail for that person's prior alleged offense.

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

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

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

25 (e) After the entry of an order by the trial court allowing  
26 or denying bail pending appeal either party may apply to the

1 reviewing court having jurisdiction or to a justice thereof  
2 sitting in vacation for an order increasing or decreasing the  
3 amount of bail or allowing or denying bail pending appeal  
4 subject to the provisions of Section 110-6.2.

5 (f) When the conditions of the bail bond have been  
6 performed and the accused has been discharged from all  
7 obligations in the cause the clerk of the court shall return to  
8 the accused or to the defendant's designee by an assignment  
9 executed at the time the bail amount is deposited, unless the  
10 court orders otherwise, 80% ~~90%~~ of the sum which had been  
11 deposited and shall retain as bail bond costs 10% of the amount  
12 deposited. However, in no event shall the amount retained by  
13 the clerk as bail bond costs be less than \$5. The county  
14 sheriff shall retain the remaining 10% of the amount deposited  
15 for sheriff's office operations. However, in no event shall the  
16 amount retained by the sheriff for sheriff's office operations  
17 be less than \$5. Bail bond deposited by or on behalf of a  
18 defendant in one case may be used, in the court's discretion,  
19 to satisfy financial obligations of that same defendant  
20 incurred in a different case due to a fine, court costs,  
21 restitution or fees of the defendant's attorney of record. In  
22 counties with a population of 3,000,000 or more, the court  
23 shall not order bail bond deposited by or on behalf of a  
24 defendant in one case to be used to satisfy financial  
25 obligations of that same defendant in a different case until  
26 the bail bond is first used to satisfy court costs, sheriff's

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

10 At the request of the defendant the court may order such  
11 80% ~~90%~~ of defendant's bail deposit, or whatever amount is  
12 repayable to defendant from such deposit, to be paid to  
13 defendant's attorney of record.

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

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

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

1 judgment.

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

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.