



House of Representatives

General Assembly

File No. 575

January Session, 2001

House Bill No. 7027

House of Representatives, May 2, 2001

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE POSTING OF BAIL BONDS BY PRIVATE CITIZENS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 54-66 of the general statutes is repealed and the following is
2 substituted in lieu thereof:

3 (a) In any criminal case in which a bond is allowable or required
4 and the amount thereof has been determined, the accused person, or
5 any person in the accused person's behalf, (1) may deposit, with the
6 clerk of the court having jurisdiction of the offense with which the
7 accused stands charged or any assistant clerk of such court who is
8 bonded in the same manner as the clerk or any person or officer
9 authorized to accept bail, a sum of money equal to the amount called
10 for by such bond, or (2) may pledge real property, the equity of which
11 is equal to the amount called for by such bond, provided the person
12 pledging such property is the owner of such property, and such
13 accused person shall thereupon be admitted to bail. When cash bail is

14 offered, such bond shall be executed and the money shall be received
15 in lieu of a surety or sureties upon such bond. Such cash bail shall be
16 retained by the clerk of such court until a final order of the court
17 disposing of the same is passed; provided, if such bond is forfeited, the
18 clerk of such court shall pay the money to the payee named therein,
19 according to the terms and conditions of the bond. When cash bail in
20 excess of ten thousand dollars is received for a person accused of a
21 felony, where the underlying facts and circumstances of the felony
22 involve the use, attempted use or threatened use of physical force
23 against another person, the clerk of such court shall prepare a report
24 that contains (A) the name, address and taxpayer identification
25 number of the accused person, (B) the name, address and taxpayer
26 identification number of each person offering the cash bail, other than
27 a person licensed as a professional bondsman under chapter 533 or a
28 surety bail bond agent under chapter 700f, (C) the amount of cash
29 received, and (D) the date the cash was received. Not later than fifteen
30 days after receipt of such cash bail, the clerk of such court shall file the
31 report with the Department of Revenue Services and mail a copy of the
32 report to the state's attorney for the judicial district in which the court
33 is located and to each person offering the cash bail.

34 (b) When real property is pledged, the pledge shall constitute a lien
35 on the real property upon the filing of a notice of lien in the office of
36 the town clerk of the town in which the property is located. The lien
37 shall be in an amount equal to the bond set by the court. The notice of
38 lien shall be on a form prescribed by the Office of the Chief Court
39 Administrator. Upon order of forfeiture of the underlying bond, the
40 state's attorney for the judicial district in which the forfeiture is
41 ordered shall refer the matter to the Attorney General and the
42 Attorney General may, on behalf of the state, foreclose such lien in the
43 same manner as a mortgage. The lien created by this subsection shall
44 expire six years after the forfeiture is ordered unless the Attorney
45 General commences an action to foreclose it within that period of time
46 and records a notice of lis pendens in evidence thereof on the land

47 records of the town in which the property is located. If the bond has
48 not been ordered forfeited, the clerk of the court shall authorize the
49 recording of a release of such lien upon final disposition of the
50 criminal matter or upon order of the court. The release shall be on a
51 form prescribed by the Office of the Chief Court Administrator.

52 (c) Whenever an accused person is released upon the deposit by a
53 person on behalf of the accused person of a sum of money equal to the
54 amount called for by such bond or upon the pledge by a person on
55 behalf of the accused person of real property, the equity of which is
56 equal to the amount called for by such bond, and such bond is ordered
57 forfeited because the accused person failed to appear in court as
58 conditioned in such bond, the court shall, at the time of ordering the
59 bond forfeited: (1) Issue a rearrest warrant or a capias directing a
60 proper officer to take the accused person into custody, (2) provide
61 written notice to the person who offered cash bail or pledged real
62 property on behalf of the accused person that the accused person has
63 failed to appear in court as conditioned in such bond, and (3) order a
64 stay of execution upon the forfeiture for six months. When the accused
65 person whose bond has been forfeited is returned to custody pursuant
66 to the rearrest warrant or a capias within six months of the date such
67 bond was ordered forfeited, the bond shall be automatically
68 terminated and the person who offered cash bail or pledged real
69 property on behalf of the accused person shall be released from such
70 obligation and the court shall order new conditions of release for the
71 accused person in accordance with section 54-64a. When the accused
72 person whose bond has been forfeited returns to court voluntarily
73 within five business days of the date such bond was ordered forfeited,
74 the court may, in its discretion, and after finding that the accused
75 person's failure to appear was not wilful, vacate the forfeiture order
76 and reinstate the bond. Such stay of execution shall not prevent the
77 issuance of a rearrest warrant or a capias.

JUD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Potential Significant Revenue Loss¹

Affected Agencies: Judicial Department, Division of Criminal Justice

Municipal Impact: None

Explanation

State Impact:

The bill could result in a significant revenue loss to the state. The bill establishes a six-month stay of execution for cash bonds pledged by private individuals. The state collects about \$420,000 per year in revenue from forfeited bonds in criminal cases. The portion of this amount that is collected from individuals (rather than bail bondsmen) is not currently available. In addition, the portion of those who would return to court within the six-month period, thereby averting a forfeit of their bond, is unknown. Currently, cash bonds (as opposed to surety bonds provided by bail bondsmen) are forfeited automatically after a defendant's failure to appear for a court date.

The state also collects over \$4,000,000 in revenue related to bond forfeitures in motor vehicle related cases. It is uncertain if the bill's stay of execution applies to these cases also. If so, it is not anticipated that the bill would affect the level of revenue collected from these

¹ OFA defines significant as exceeding \$100,000.

cases. It should be noted, however, that these funds would have to be set-aside until six months has expired.

OLR BILL ANALYSIS

HB 7027

AN ACT CONCERNING THE POSTING OF BAIL BONDS BY PRIVATE CITIZENS.**SUMMARY:**

This bill applies the rules on forfeiting bail bonds with surety to bonds where someone posts bond on behalf of the accused by (1) depositing money equal to the bond or (2) pledging real property with equity equal to the bond.

Under the bill, when a bond is ordered forfeited because an accused person failed to appear in court, the court must:

1. issue a rearrest warrant or *capias* (an order to take someone into custody) for the accused,
2. give written notice that the accused failed to appear to the person who gave cash bail or pledged real estate, and
3. stay forfeiture of the bond for six months.

Under the bill, if the accused returns to custody within six months of the forfeiture order, (1) the bond is automatically terminated, (2) the person who gave cash or pledged real estate is released from his obligation, and (3) the court can order new conditions of release for the accused as provided by law.

The bill gives the court discretion to vacate the forfeiture of the bond if the accused voluntarily returns to court within five days of the court's forfeiture order and the court finds that the failure to appear was not willful. A stay of execution of forfeiture does not prevent issuing a rearrest warrant or *capias*.

EFFECTIVE DATE: October 1, 2001

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report
Yea 38 Nay 0