

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 768
Judiciary

(Delegate Haynes, *et al.*)

Bail Bonds - Time of Payment

This bill authorizes a defendant or a defendant's surety who posts a bail bond in the circuit court in an amount that is 10% of the penalty amount to deposit half of the amount with the clerk of the court immediately and the other half within six months after the first amount was deposited. The bill extends the same installment plan to a defendant or the defendant's surety who posts a bail bond in the District Court that is a percentage of the penalty amount.

Fiscal Summary

State Effect: Potential minimal decrease in general fund revenues if the bill results in reduced collections of unpaid bail. Minimal increase in general fund expenditures for contractual personnel for the Judiciary to accommodate the bill's requirements manually until the implementation of the new case management system, anticipated in 2015.

Local Effect: Potential decrease in local revenues if the bill results in reduced collections of unpaid bail. Potential minimal increase in local expenditures for circuit courts to reprogram computers or manually accommodate the bill's requirements.

Small Business Effect: Potential meaningful impact on bail bondsmen who can accept more clients as a result of the bill's installment plan.

Analysis

Current Law: A circuit court may adopt rules setting the terms and conditions of bail bonds filed in that court and rules on the qualifications of and fees charged by bail bondsmen. If expressly authorized by the court, a defendant or a private surety acting for

the defendant may post a bail bond by executing it in the full penalty amount and depositing with the clerk of court the greater of 10% of the penalty amount or \$25.

Other than for a defendant who has been arrested for failure to appear in court or for contempt of court, in a criminal or traffic case in the District Court in which a bail bond has been set and if expressly authorized by the court or District Court commissioner, the defendant or a private surety acting for the defendant may post the bail bond by (1) executing it in the full penalty amount; and (2) depositing with the clerk of the court or a commissioner the greater of 10% of the penalty amount or \$25. A judicial officer may increase the percentage of cash surety required in a particular case but may not authorize a cash deposit of less than \$25.

State Fiscal Effect: Minimal increase in general fund expenditures for contractual personnel for the Judiciary to accommodate the bill's requirements manually until the implementation of the Judiciary's new case management system, anticipated in 2015. Potential minimal decrease in general fund revenues if the bill results in reduced collections of unpaid bail.

Legislative Services advises that the bill's requirements can be handled through manual transactions, which will likely require additional contractual personnel. The need for these additional personnel will dissipate once the new case management system is operational.

The Judiciary advises that its existing system is not designed to accommodate an installment plan for the initial payment of bail bonds. Currently, the system contains entries for the total bail ordered by the court and whether the defendant paid the full amount, made a deposit of 10% of the penalty amount or paid \$25. If bail is forfeited, the court keeps the deposit and an automatically generated collection letter is issued for the remaining amount.

Under the system proposed by the bill, the court has to reprogram its computers to contain (1) the total amount of bail ordered; (2) an entry that the defendant is opting for a 10% deposit; (3) an entry indicating that the defendant will pay the 10% deposit in two installments of 5% each; and (4) that the second installment is due in six months. The court then has to send notices when the second installment is due and track payments for the total amount currently due as an initial deposit. For individuals who opt for the installment plan, this doubles the number of transactions the Judiciary engages in when collecting an initial deposit on bail. If bail is forfeited, the system must differentiate between individuals who paid the entire deposit and individuals who opted for the installment plan when issuing collection notices.

According to the Judiciary's information technology department, reprogramming the current bail bond computer system to accommodate an installment plan requires significant resources. The Judiciary requires six months to gather resources for the system and two years to fully implement it. Since the Judiciary is currently devoting much of its information technology resources towards the development and implementation of its new case management system, any alterations to the current bail bond system may be of short duration. The Judiciary also advises that its new case management system is more flexible than the existing system and is likely to accommodate an installment plan, such as the one proposed in this bill.

If the bail is forfeited before the second installment is due, the court would keep the initial 5% installment and would have to send a collection letter and attempt to collect on 95% of the penalty amount as opposed to the current system in which the court keeps the initial 10% deposit and attempts to collect the remaining 90% of the penalty amount. The Judiciary also advises that in some instances, a case is concluded within six months. The installment plan under the bill may result in the courts engaging in collection proceedings for an initial bail bond deposit due in a case that has already concluded. To the extent either of these situations occur, the bill may result in reduced revenues for the District Court from bail forfeitures and collections.

Local Fiscal Effect: Local revenues may decrease and local expenditures may increase to the extent that the circuit courts face the same challenges as the District Court with respect to (1) computer reprogramming; (2) increased transactions; (3) collections; and (4) forfeitures.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510