



OFFICE OF THE CLERK OF THE CIRCUIT COURT OF COOK COUNTY

April 12, 2017

Honorable Timothy C. Evans Chief Judge
Circuit Court of Cook County
2600 Richard J. Daley Center
Chicago, Illinois 60602

Dear Chief Judge Evans:

In our effort to continuously identify revenue-saving initiatives, the Office of the Clerk of the Circuit Court ("Clerk's Office") is requesting entry of an administrative order prioritizing payment of court fines and costs prior to disbursement of bail bond refunds to attorneys.

In a majority of instances involving cash bond refund requests to attorneys, the Clerk's Office is ordered to refund the posted bail without deducting the court ordered and/or statutorily mandated fines, fees and costs. In fiscal year 2015 alone, the Clerk's Office was ordered to disburse to attorneys a total of \$26,802,308.14. That figure is in sharp contrast to \$600,000.00 deducted for court fines, fees and costs. The amount of money collected for court fines, fees and costs would be significantly higher if the court allows the payment of fines, fees and costs prior to disbursement of bail bond refunds to attorneys.

The deposit bail bond statute provides the following:

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

725 ILCS 5/110-7(h) (emphasis added). See also People v. Echols, 146 Ill. App. 3d 965, 100 Ill. Dec. 343, 497 N.E.2d 321 (1 Dist. 1986) and People v. Nicholls, 45 Ill. App. 3d 312, (5th Dist. 1977).

The statute instructs that court fines and costs should first be deducted from the bail bond refund, prior to disbursing the remainder of the refund amount, if any.

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725 ILCS 5/110-7(f) further clarifies that:

At the request of the defendant the court may order such 90% of defendant's bail deposit, *or whatever amount is repayable to the defendant* to be paid to defendant's attorney of record. (*Emphasis added.*)

As a result, the bail bond refund to the attorney should be paid from "whatever amount is repayable to the defendant." Because the court fines and fees are not part of the amount that remains payable to the defendant, the bail bond refund to attorneys should not include these amounts.

In light of the statutory provision to support a categorical disbursement priority that places bail bond costs, fines, fees and court costs ahead of other items, and the fact that bail refund to attorney is based upon whether or not bail (after bail bond costs, fines, fees and court costs are deducted) is payable to defendant, **we respectfully request entry of a General Administrative Order for the purpose of administrative clarity, consistent with ILCS 5/110-7(h) and ILCS 5/110-7(f).**

I have enclosed for your reference, a draft General Administrative Order that specifically addresses priorities for the refund of bail bonds. In addition, I have enclosed a draft Petition and Order Pursuant to 725 ILCS 5/110-7 Requesting Refund of Bail to Attorney of Record that orders bail posted to be refunded less all fines, costs, statutory fees, and other purposes as authorized by the Court.

If you have any questions concerning this request, you may contact me at (312) 603-5071, or have your staff contact Michael Moore, Executive Clerk for Court Operations, at (312) 603-5400.

Sincerely,



Dorothy Brown
Clerk of the Circuit Court of Cook County

DB:gl

Enclosures

cc: Wasiu Fashina, Chief of Staff
Michael Moore, Executive Clerk for Court Operations and Administration
Richard Abrams, Chief Financial Officer and Comptroller
Kelly Smeltzer, General Counsel

**GENERAL ADMINISTRATIVE ORDER NO. _____ - CRIMINAL BOND
REFUND**

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

GENERAL ADMINISTRATIVE ORDER NO. _____

SUBJECT: CRIMINAL BOND REFUND

IT IS HEREBY ORDERED:

The priority for the refund of bail bonds in the Circuit Court of Cook County shall be established as follows: All cash bond refunds to attorneys will be made after the court ordered fines, fees and costs have been deducted from the bail bond deposited with the Clerk of the Circuit Court.

Pursuant to 725 ICS 5/110-7(f)

Bail bond deposited by or on behalf of a defendant may be used, in the court's discretion, to satisfy financial obligations of that same defendant due to a fine, court costs, restitution or fees of the defendant's attorney of record.

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

Dated this ___ day of _____, 2017, effective March 1, 2017. This order shall be spread upon the records of this court and published.

Enter:

Timothy C. Evans

Chief Judge

Circuit Court of Cook County

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS

or

Village, City, Town:

v.

Defendant/Petitioner

Case No.

Bond No.

Amt of Bond \$

Amt of Deposit \$

Branch/Room

DEFENDANT'S PETITION PURSUANT TO 725 ILCS 5/110-7 REQUESTING REFUND OF BAIL TO ATTORNEY OF RECORD

Petitioner, the Defendant in the above-captioned case respectfully says:

- 1. That s/he has performed all the conditions of his/her bond.
2. That s/he has agreed that the Clerk of the Court pay the refund in the amount of bail deposit remaining after the ordered deductions, to his/her attorney of record in payment for legal services rendered.
3. That s/he waives all claims, title and interest in the said bail deposit.
4. That if the bond was posted by a provider other than the Defendant, the provider has signed the bond slip acknowledging that any refund due can be used to pay for Defendant's attorney's fees, and all other fees and costs as ordered by Court.

ORDER

This cause coming on to be heard on the petition of the Defendant, the Defendant being present in open court, and the Court after considering the petition, interest of any parties in said bail deposit, and being fully advised in the premises;

IT IS HEREBY ORDERED that any attorney requesting a bond refund must file a W-9 form with the Clerk of the Court before any monies are dispersed.

IT IS FURTHER ORDERED that the bail heretofore posted in this cause be refunded less all fines, costs, statutory fees and other purposes as authorized by the court pursuant to 725 ILCS 5/110-7.

The check is to be made payable to:

Print Name

The mailing address of the check is:

Print Address

* Attorney is requested to attach a copy of the bond signed by the Defendant and provider (if different from Defendant) to this petition.

Atty. No.:

Pro Se 99500

ENTERED:

Atty Name:

Dated:

Atty. for:

Address:

City:

State:

Zip:

Telephone:

Primary Email:

Secondary Email:

Tertiary Email:

Judge

Judge's No.