



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Text

File #: 15-2499, **Version:** 1

PROPOSED RESOLUTION

URGING THE GENERAL ASSEMBLY TO PASS LEGISLATION TO REFORM PERCENTAGE BASED BAIL BOND FEES

WHEREAS, in 2011, 79% of Cook County defendants were either ordered to pay financial bond to secure release pending trial or held without bond, 13% were ordered released subject to electronic monitoring and only 8% were released pursuant to an I-bond; which allows defendants to be released upon a signature, but still subjects them to payment of the full bond amount if they fail to make a required court appearance; and

WHEREAS, by contrast, New York City releases approximately 70% of their felony pre-trial defendants on personal recognizance, and Washington, D.C. releases over 80% of their felony pre-trial defendants on personal recognizance, yet both cities have high court appearance rates and low re-arrest rates; and

WHEREAS, our over-reliance on a money-based bail system disproportionately impacts low-income people and minorities, perpetuating the cycle of poverty and incarceration, evidenced by the fact that about 86% of the Cook County jail population are African-American or Hispanic; and

WHEREAS, when properly administered, bail is designed to be a function of risk to society or flight risk, not simply a means test of ability to pay; and

WHEREAS, the overreliance on monetary bail and the inability of many detainees to afford it are among the primary drivers of the level and growth in our jail population; and

WHEREAS, monetary bail additionally means that those too poor to pay remain in jail regardless of their risk level or presumed innocence; and

WHEREAS, a decades-old state law (725 ILCS 5/110-7) directs court clerks to retain 10% of posted bail as 'bail bond costs' regardless of the size of the bond even though the costs of processing a bond by the Clerk of the Court are the same regardless of the bond amount; and

WHEREAS, people with limited financial resources may not have the capacity to forfeit a 10% deposit on their bond and the prospect of posting bond is made even more challenging given that even if they are able to post bond, 10% of the money posted is kept by the Clerk of the Circuit Court, regardless of whether they abide by the conditions of their bond, if they are found to be innocent of the charges against them or even if the charges are dropped; and

WHEREAS, this percentage-based fee is inherently unfair and regressive. As a percentage of their income, poor people who are arrested are paying more for these bond processing fees, in fact on any given day, about 1/5 of the Cook County jail population are there because they were unable to post \$6,000 or less to bail out, resulting in higher than necessary daily jail populations at a significant cost to the county, costs that can exceed the amount of the underlying bail; and

WHEREAS, in 2013, the Clerk of the Court for Cook County retained \$5.6 million as 'bail bond costs' pursuant to 725 ILCS 5/110-7; and

WHEREAS, it is contrary to prudent public policy or the notion of an equitable criminal justice system for units of

government to use excessive 'bail bond costs' as a profit resource; and

WHEREAS, legislation was recently introduced in both the Illinois House of Representatives and Illinois Senate which would amend 725 ILCS 5/110-7 by capping the antiquated percentage-based bond processing fee collected by the Cook County Clerk of the Circuit Court at \$100, an amount more than sufficient to cover processing costs;

NOW, THEREFORE, BE IT RESOLVED, that the Cook County Board of Commissioners urges the Illinois General Assembly to pass legislation amending 725 ILCS 5/110-7 to cap the fee collected on bail bond deposits by the Clerk of the Circuit Court for Cook County, thereby reducing the already significant and unnecessary financial burden on pre-trial detainees and their families, reducing average daily jail population, as a necessary step towards reforming our criminal justice system; and

BE IT FURTHER RESOLVED, that a suitable copy of the Resolution be tendered to the Speaker of the Illinois House of Representatives, the President of the Illinois Senate and to the Governor of Illinois.