

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 631
Judiciary

(Delegate Stukes, *et al.*)

Forfeiture of Bail Bonds

This bill repeals the provisions of Chapter 598 of 2011, which prohibit a court from refunding a forfeited bail bond unless specified criteria are met.

Fiscal Summary

State Effect: Decrease in general fund revenues due to increased recoveries by sureties of forfeited bail bonds or collateral. General fund expenditures for the Judiciary increase by \$34,200 in FY 2015 only for computer reprogramming.

Local Effect: Decrease in local revenues due to increased recoveries by sureties of forfeited bail bonds or collateral.

Small Business Effect: Potential meaningful effect on small business sureties that are able to recover forfeited bail bonds as a result of the bill.

Analysis

Bill Summary/Current Law: If a defendant fails to appear in court as required, the court will order the forfeiture of the bond and issue a warrant for the defendant's arrest. If the defendant or surety can show that there were reasonable grounds for the failure to appear, a judge may strike the forfeiture in whole or in part. Where a surety executed the bond with the defendant, the surety has 90 days to satisfy the bond by either producing the defendant or by paying the penalty amount of the bond. The court may extend this period to 180 days for good cause shown.

Chapter 598 of 2011: Chapter 598 of 2011 prohibits a court from refunding a forfeited bail bond or collateral to a surety because of a defendant's failure to appear due to being incarcerated out of state unless the surety paid the forfeiture of bail or collateral within 90 days after the defendant's failure to appear or 180 days for good cause shown. However, the court may refund the forfeited bond or collateral if the surety produces evidence on motion that the defendant was incarcerated when the court entered the forfeiture judgment and the court strikes out the judgment of forfeiture for fraud, mistake, or irregularity.

A court that has ordered forfeiture of a bail bond or collateral after expiration of the time limits for a surety to return a defendant must give back the forfeited bail bond or collateral if, within 10 years after the date the bail bond or collateral was posted, the surety produces evidence that (1) the defendant is confined in a correctional facility outside the State; (2) the State's Attorney is unwilling to issue a detainer and later extradite the defendant; and (3) the surety agrees in writing to defray the expense of returning the defendant to the jurisdiction. A court is only required to return the forfeited bail bond or collateral if the surety paid the forfeiture within the 90- or 180-day time period.

In effect, under Chapter 598 of 2011, a surety must pay the penalty amount of the bond to the court within the 90- or 180-day period to be entitled to a 10-year period within which the forfeiture of bail or collateral may be stricken out upon apprehension of the defendant.

Repeal of Chapter 598 of 2011: A repeal of Chapter 598 of 2011 requires a court to strike out a forfeiture of bail or collateral and discharge the underlying bail bond if the defendant can show reasonable grounds for the defendant's failure to appear. The court is also required to do this if the defendant is returned to the custody of law enforcement and the arrest, apprehension, or surrender occurs more than 90 days after the defendant's failure to appear or at the end of the period that the court allows to return the defendant.

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State Fiscal Effect: General fund revenues decrease due to (1) increased recoveries by sureties of forfeited bail bonds and (2) fewer sureties paying bail bond forfeitures during the court-ordered 90- or 180-day time period.

General fund expenditures for the Judiciary increase by \$34,200 in fiscal 2015 only for computer reprogramming. The Judiciary advises that it has spent a significant amount of time and money implementing Chapter 598 of 2011, including notifications to surety companies and bondsmen, and clerk training. A repeal of Chapter 598 of 2011 requires 564 hours of computer reprogramming to revert to the previous system, at a cost of \$34,200 in fiscal 2015 only.

The Judiciary advises that (1) since the enactment of Chapter 598 of 2011, there has been a dramatic decrease in the number of bond forfeitures from professional sureties that remain open after the required 90- or 180-day time period and (2) a repeal of Chapter 598 of 2011 results in an increase in outstanding bail bond forfeitures and an increase in requests for remissions of bail bond forfeitures. Hearings and appeals regarding these requests increase court caseloads and clerical time to pre-October 1, 2011 levels.

Additional Information

Prior Introductions: None.

Cross File: SB 1030 (Senators Muse and Conway) - Rules.

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

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ncs/kdm

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