

Department of Legislative Services  
Maryland General Assembly  
2008 Session

FISCAL AND POLICY NOTE

House Bill 421  
Judiciary

(Delegate Costa, *et al.*)

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Criminal Procedure - Bail Bonds - Mike's Law

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This bill prohibits a “bail bondsman” from offering or providing bail to a defendant • for less than 10% of the penalty amount of the bond to be posted; or • on a payment plan in which at least 10% of the bond’s penalty amount to be posted is not received by the bail bondsman from the defendant prior to the bond being posted. A violator is guilty of a misdemeanor and subject to maximum fines of \$100 for a first offense and \$1,000 for a subsequent offense. A violator is to be referred to the Insurance Commissioner for appropriate action following a conviction.

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Fiscal Summary

**State Effect:** Potential minimal general fund expenditures for the Judiciary to implement a notification system within its databases. Any additional workload for the Judiciary could be handled with existing resources.

**Local Effect:** Any additional workload for the circuit courts could be handled with existing resources.

**Small Business Effect:** None.

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Analysis

**Current Law:** Although a bail bondsman typically charges a fee equal to 10% of the required bail bond, statute does not specify a minimum fee that a bail bondsman must charge. 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. A violation of any rule regarding bail bonds in circuit court is contempt of court. The

Maryland Insurance Administration licenses and regulates surety bail bondsmen in the State.

**Background:** A bail bond is the written obligation of the defendant, with or without a surety or collateral security, conditioned on the personal appearance of the defendant in court as required and providing for payment of a specific penalty (the amount of the bail) upon default. If a defendant is unable to post bail, the defendant may seek the assistance of a bail bondsman to obtain a corporate surety or lien on the bondsman's real property to secure the bond with the defendant.

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. Should the defendant be produced subsequent to forfeiture of the bond, the surety may seek a refund of any penalty paid, less expenses incurred by the State in apprehending the defendant.

The bond is discharged and the collateral is returned when all the charges in the case have been disposed of by *nolle prosequi*, dismissal, acquittal, probation before judgment, or final judgment of conviction or if the charges are placed on the stet docket.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Maryland Insurance Administration, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2008  
mam/jr

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