

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 2444

INTRODUCER: Senator Posey

SUBJECT: Cash Bonds for Criminal Defendants

DATE: April 10, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Favorable
2.			JU	
3.				
4.				
5.				
6.				

I. Summary:

Senate Bill 2444 requires written notice to the person who posts cash bond for a criminal defendant that the bond money may be retained by the clerks of the court to pay costs, fines, and fees in the case.

This bill substantially amends section 903.286 of the Florida Statutes.

II. Present Situation:

Chapter 903, F.S., regulates bail and bond procedures. There are three ways a defendant can gain release from jail prior to the conclusion of a criminal case: the defendant can be released on their own recognizance, which does not require any money be posted; the defendant may be required to post a cash bond¹; or the defendant would have the option to post a surety bond² through the services of a bail bondsman. The bond amount is set by a judge, either during first appearance or by a warrant. The bond amount is based on the nature and circumstance of the criminal offense, the weight of the evidence against the defendant, the defendant's ties to the community, the

¹ To post a cash bond, a defendant deposits the entire amount of the bail with the clerk of the court. If the defendant makes all court appearances, the defendant is refunded the entire amount of the bond, minus any monies that are withheld by the clerk of the court to pay court expenses, fees, fines, etc.

² To post a surety bond, a defendant would obtain the services of a bail bondsman, who typically charge a defendant a fee of 10 percent of the bond amount, with the bondsman paying the total bail amount to the clerk of the court and acting as a guarantor of the defendant's presence at all court appearances. The defendant does not receive a refund of the 10 percent upon conclusion of the criminal case. The bondsman retains the 10 percent as a fee for services. Court costs, fees, and fines may not be withheld from a surety bond.

defendant's prior conduct, whether the defendant is a danger to the community, whether the defendant is already on release for another criminal offense, the source of funds used to post bail, the street value of a controlled substance connected to the criminal case if the offense involved drugs, the probability of intimidation to victims, and any other facts the court deems relevant.³

As mentioned above, s. 903.286, F.S., specifically allows the clerk of the court to withhold money from a cash bond – so long as it was not posted by a licensed bail bond agent - for the purposes of paying outstanding court costs and fees as well as fines.

III. Effect of Proposed Changes:

In order to collect fines, fees, and costs from cash bond payments, the bill would require the clerk of the court to keep a receipt, signed at the time the bond is posted, stating that the person who posted the bond received written notice that money may be withheld from the bond.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Clerks of the Court may have a workload issue with the requirement that they keep receipts in criminal cases where a cash bond is posted.

VI. Technical Deficiencies:

None.

³ Section 903.046, F.S.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
