



Statement of the Illinois Association of Court Clerks regarding House Bill 163 as amended by Senate Amendment 2

As the 101st General Assembly deliberates the language contained in House Bill 163, the Illinois Association of Court Clerks offers the following comments regarding provisions of the bill that will impact circuit clerk operations, particularly elimination of monetary bail.

1) Elimination of Monetary Bail

First, we would like to thank the sponsors for including our organization in past discussions regarding bail reform and elimination of cash bail. It is our hope that we have been able to inform those conversations with data and that lawmakers will continue to include our members as a valuable resource on these issues.

In Illinois, court system funding is a shared responsibility of the state and counties. Revenue to provide court services comes from a variety of sources including the state income tax, county property taxes, case filing fees, court-imposed fines and assessments, and other fees. The ten percent of bail retained by the circuit clerks (earned bond) is a revenue source used by both the circuit clerks' offices and by the county. Earned bond is applied both toward the obligations listed here, and to county general funds as an earning of the office.

Eliminating monetary bail will have a direct financial impact on circuit clerk operations and budgets. Bond is applied to forfeitures, fines, costs and fees associated with a case. With the enactment of the Criminal and Traffic Assessment Act in 2019 allowing for waiver of fines and fees, bond is now often the only revenue that is received in a case. Some counties report that 65 to 75 percent of all fees collected are paid with bond, and a survey of clerks showed that approximately 50 percent of receipts taken in by their office represent bond funds. Eliminating monetary bail will not only negatively impact the funds that are directly related to court operations, such as the Court Automation and Document Storage Fund. It will also mean a reduction in disbursements to other programs such as domestic violence shelters, police camera grants, and drug treatment services.

The legislative and judicial branches have made meaningful progress over the past decade in addressing access to justice. The Access to Justice Act and the Criminal and Traffic Assessment Act are a direct result of those efforts. But changes to how court costs are assessed, including elimination of monetary bail, have real impacts on the function of our courts. To date, this discussion has not included a comprehensive dialogue on funding the court system that provides that access.

If the General Assembly eliminates a current source of funding, we ask that they work to identify alternatives and carefully evaluate the financial impact of any legislation on the function of our courts. Discussion of any proposed legislation that would eliminate a current revenue source of the circuit clerks' offices should be accompanied by a parallel discussion regarding how that revenue can be replaced.

2) Pretrial Data Collection

HB 163 creates an oversight board (Pretrial Practices Data Oversight Board) to oversee the collection and analysis of data regarding pretrial practices. The bill then goes on to define duties of the board as well as enumerate the pieces of data that will be collected in Section 7.7 (c). The wording of the legislation places responsibility for data collection on the circuit clerk's offices when in many cases the data being sought in Section 7.7 (c) is not maintained by the circuit clerk.

For example, in (1) records regarding arrests and (6) records of re-arrests would be produced by the arresting agency. In (3), information regarding person detained and (4) discharge data would be produced by the county sheriff, and in (4) information regarding electronic monitoring programs would generally be maintained by probation services.

The language of the bill implies that the circuit clerks will be the clearinghouse of the information sought, but to do so would require software system changes and hiring of additional staff. While the bill charges the Oversight Board with identifying resources necessary to collect and report data, it does not identify a funding source or means of addressing the cost of the data collection. Regarding provisions of HB 163 for pretrial data collection, IACC opposes the language as currently drafted due to the operational and financial burden it would create for our members.

3) Conclusion

Both the elimination of monetary bail as a revenue source and the addition of data collection duties poses financial concerns for the operations of the circuit clerks.

The Illinois Association of Court Clerks is not taking a position on the provisions of the bill eliminating monetary bail as the policy of ensuring court appearance is a question for the legislature. However, we ask that lawmakers and policy makers give serious consideration to how the Illinois courts should be funded and ensure that our circuit clerks have adequate financial resources to perform their duties.

The Illinois Association of Court Clerks looks forward to working with legislators and stakeholders on this important issue. Please feel free to contact our lobbyist, Brittan Bolin at bbconsulting1@comcast.net or 217-899-8555.