



|| SENATE OF PENNSYLVANIA  
BILL SUMMARY

**House Bill 123**  
**Printer's No. 2253**

Prime Sponsor: Representative Delozier  
Committee: Judiciary

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**SYNOPSIS:**

This bill amends Title 42 (Judiciary and Judicial Procedure) to deduct from cash bail that is returnable to a defendant any restitution, fees, fines, and costs imposed upon that defendant in a previous criminal or delinquency case.

**SUMMARY:**

Under current law, all matters relating to the fixing, posting, forfeiting, exoneration and distribution of bail and recognizances are governed by rules of court. In particular, Rule 528 of the Pennsylvania Rules of Criminal Procedure provides in part as follows: "If the bail was deposited by or on behalf of the defendant and the defendant is the named depositor, the amount otherwise returnable to the defendant may be used to pay and satisfy any outstanding restitution, fees, fines, and costs owed by the defendant as a result of a sentence imposed in the court case for which the deposit is being made." *See also* Rule 535(E) of the Pennsylvania Rules of Criminal Procedure (similar language).

In cases in which the defendant is the named depositor, this bill requires that any cash bail deposited by the defendant that is otherwise returnable shall be held and applied to the payment of any restitution, fees, fines, and costs imposed upon the defendant in connection with any criminal or delinquency case, unless the defendant shows that he or she would suffer an undue hardship.

In cases in which the defendant is not the named depositor, this bill allows that the court may order, upon motion of the attorney for the Commonwealth, that any cash bail that is otherwise returnable to the depositor be held and applied to the payment of restitution, fees, fines, costs imposed upon the defendant in connection with any criminal or delinquency case, unless the depositor shows that he or she would suffer an undue hardship. The bill requires that written notice of this provision be provided to the depositor before a deposit is accepted.

**EFFECTIVE DATE:**

This bill is effective in 60 days.

**BILL HISTORY:**

Passed the House of Representatives on September 30, 2015 by a vote of 154-39.

Prepared by: Cawley 6/20/2016

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 123**      Session of  
2015

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INTRODUCED BY DELOZIER, MARSICO, GABLER, GRELL, A. HARRIS,  
M. K. KELLER, MURT, READSHAW, SACCONI, MOUL, FARRY, JOZWIAK,  
KORTZ AND DUSH, JANUARY 21, 2015

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
SEPTEMBER 29, 2015

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## AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in bonds and  
3 recognizances, further providing for bail to be governed by  
4 general rules.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 5702 of Title 42 of the Pennsylvania  
8 Consolidated Statutes is amended to read:

9 § 5702. Bail to be governed by general rules.

10 (a) General rule.--Except as otherwise provided by this  
11 title and the laws relating to the regulation of surety  
12 companies, all matters relating to the fixing, posting,  
13 forfeiting, exoneration and distribution of bail and  
14 recognizances shall be governed by general rules.

15 (b) Use of cash bail.--

16 ~~(1) Unless otherwise ordered by the court, if cash bail <--~~  
17 ~~was deposited by or on behalf of a defendant, the amount~~  
18 ~~otherwise returnable shall be used to pay and satisfy any~~

1 ~~outstanding restitution, fees, fines and costs owed by the~~  
2 ~~defendant in connection with any criminal or delinquency~~  
3 ~~case.~~ IN ANY CASE IN WHICH THE DEFENDANT IS THE NAMED <--  
4 DEPOSITOR, ANY CASH BAIL DEPOSITED BY THE DEFENDANT THAT IS  
5 OTHERWISE RETURNABLE TO THE DEFENDANT SHALL BE HELD AND  
6 APPLIED TO THE PAYMENT OF ANY RESTITUTION, FEES, FINES AND  
7 COSTS IMPOSED UPON THE DEFENDANT IN CONNECTION WITH ANY  
8 CRIMINAL OR DELINQUENCY CASE, UNLESS THE DEFENDANT SHOWS THAT  
9 HE OR SHE WOULD SUFFER AN UNDUE HARDSHIP.

10 (2) IN ANY CASE IN WHICH THE DEFENDANT IS NOT THE NAMED  
11 DEPOSITOR, THE COURT MAY ORDER, UPON MOTION OF THE ATTORNEY  
12 FOR THE COMMONWEALTH, THAT ANY CASH BAIL DEPOSITED ON BEHALF  
13 OF THE DEFENDANT THAT IS OTHERWISE RETURNABLE TO THE  
14 DEPOSITOR BE HELD AND APPLIED TO THE PAYMENT OF ANY  
15 RESTITUTION, FEES, FINES AND COSTS IMPOSED UPON THE DEFENDANT  
16 IN CONNECTION WITH ANY CRIMINAL OR DELINQUENCY CASE, UNLESS  
17 THE DEPOSITOR SHOWS THAT HE OR SHE WOULD SUFFER AN UNDUE  
18 HARDSHIP.

19 ~~(2)~~ (3) Written notice of the provisions of this <--  
20 subsection shall be provided to a depositor prior to the  
21 acceptance of a deposit.

22 Section 2. This act shall take effect in 60 days.