

2023 -- H 5685 AS AMENDED

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO CRIMINAL PROCEDURE -- BAIL AND RECOGNIZANCE

Introduced By: Representatives Felix, Kislak, Giraldo, Henries, Tanzi, Morales,
McNamara, Kazarian, Casimiro, and Batista

Date Introduced: February 17, 2023

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-13-10 of the General Laws in Chapter 12-13 entitled "Bail and
2 Recognizance" is hereby amended to read as follows:

3 **12-13-10. Deposit of money in lieu of bail.**

4 Any person who is held in custody or committed upon a criminal charge, if entitled to be
5 released on bail, may at any time, instead of giving surety or sureties, in the discretion of the court,
6 give before the court in which he or she is held to appear his or her personal recognizance to appear
7 and do as ordered by the court, and shall be allowed to deposit, either individually or by another on
8 his or her behalf, with the court in money ten percent (10%) of the amount of bail which he or she
9 is ordered to furnish, and the justice or clerk of the court shall give him or her a certificate, and
10 upon delivery of the certificate to the officer in whose custody he or she is shall be released from
11 custody, and the money shall be deposited in the registry of the court before which the person shall
12 be recognized to appear. Consistent with Article 1, § 9 of the Rhode Island Constitution, the giving
13 of surety, or in the alternative the deposit with the court of ten percent (10%) of the amount of bail
14 set, shall be the sole monetary conditions of the release on bail, except as set forth herein. No court
15 shall require the deposit of cash as the sole monetary condition of the release on bail, except in
16 those cases where the defendant owes court-imposed restitution. Upon the default of the defendant,
17 the court before which he or she is recognized to appear may, at any time thereafter, order the
18 money deposited in the registry of the court be forfeited, subject to the provisions of §§ 12-13-16,
19 12-13-16.1 and 12-13-16.2, and the money shall be paid to the general treasurer. If money has been

1 deposited and the defendant at any time before forfeiture shall appear before the court to which he
2 or she was recognized to appear, and shall surrender himself or herself, or shall recognize before
3 the court with sufficient surety or sureties, in such an amount, to appear and do as the court may
4 order, or be in any manner legally discharged, then the court shall order the return of the deposit to
5 the defendant. If the money remains on deposit at the time of a judgment ordering the payment of
6 restitution or any assessment made pursuant to § 12-25-28 that has not been waived by the court
7 ~~for the payment of a fine and costs, restitution, or any other assessment issued by the court~~, the
8 clerk must apply the money in satisfaction of the ~~judgment, and after satisfying the fine and costs,~~
9 ~~restitution, or any other assessment~~ judgement's restitution order or assessment and after satisfying
10 the order or assessment must refund ~~the surplus, if any, the money surplus, if any,~~ to the defendant
11 or to the individual who posted the money on behalf of the defendant, as the case may be.

12 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would require the clerk of the court to return any bail money posted to the
2 defendant or the person who provided the bail money at the time of judgment of the case and that
3 the money shall not be used to pay costs, fines or restitution or any other assessment.

4 This act would take effect upon passage.

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