

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered June 8, 2018.

(Deleted material is struck through, and new material is underscored.)

Effective July 1, 2018, Illinois Supreme Court Rules 503, 555, and 556 are amended, as follows.

Amended Rule 503

Rule 503. Multiple Charges under These Rules

(a) Amount of Bail-Hearing Date. Police officers should refrain from issuing multiple citations for offenses arising out of the same occurrence. A person arrested and charged with more than one offense arising out of the same occurrence when the bail is established for each such offense under Rule 526, 527 or 528 shall be released from custody as follows:

(1) If bail for each such offense is established by Rule 526, and the accused is eligible for release on each charge by a promise to comply pursuant to section 6-306.4 or 6-308 of the Illinois Vehicle Code, as amended (625 ILCS 5/6-306.4 or 6-308), he or she may elect to be released by executing the written promise on each complaint copy; no court appearance shall be required if all such charges are simultaneously satisfied under Rule 529.

(2) In all other cases, the accused shall be released from custody after posting bail on the charge for which the highest bail is required, and, except as provided below, a court appearance shall be required on each charge. Whether a court appearance will be required for any other offenses charged at the same time as an offense requiring bail under Rule 526(b)(1) will be determined without regard to such truck violations. A separate bail shall be required for each case involving truck violations under Rule 526(b)(1) or similar municipal ordinances, and all such charges may be satisfied without a court appearance, if all such charges are simultaneously satisfied under Rule 529.

(3) No court appearance shall be required under this rule where all charges are traffic and conservation offenses which may be satisfied without a court appearance under Rule 529 and the accused elects to post separate cash bail on each such charge.

(4) No court appearance shall be required under this rule where all charges are traffic offenses which may be satisfied without a court appearance under Rule 529, the separate bails required for all such charges do not exceed \$500, and the accused has deposited an approved bond certificate in lieu of bail; in such event, if the accused does not appear on the date set for appearance, or any date to which the case(s) may be continued, it shall be presumed he or she has elected to post separate bails and consented to the entry of *ex parte*

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SUPREME COURT
CLERK

judgment on each such charge (see Rule 556(b)).

All such charges, whenever practicable, should be set for hearing on the same day in the same court, to be disposed of at the same time (see Rule 501(b) for definition of "Cash Bail").

(b) New Bail—Application of Bail and Return of Balance. After final disposition of a charge for which bail was posted, the court shall set new bail in a single amount to cover any concurrent charges which may be continued for further hearing at a future date. The clerk may apply any cash or security originally posted as bail to payment of any fine, penalties and costs due on the charge for which bail was originally posted or any other charge disposed of at the same time, but shall return any remaining balance to the accused and shall not retain the balance to apply, in whole or in part, to any new bail set by the court, without the consent of the accused.

Amended effective October 7, 1970; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended December 7, 1990, effective January 1, 1991; amended June 12, 1992, effective July 1, 1992; amended September 30, 2002, effective immediately; amended June 11, 2009, effective immediately; amended August 6, 2010, effective September 15, 2010; amended December 30, 2014, eff. Jan. 1, 2015; amended Dec. 29, 2017, eff. Jan. 1, 2018; amended June 8, 2018, eff. July 1, 2018.

Amended Rule 555

Rule 555. Returning Bail or Documents

(a) Court Appearance. A defendant who personally appears in court on the date on which his or her case is finally disposed of shall, upon payment of any fines, penalties, and costs which may be assessed against him or her upon a plea or finding of guilty, or as a condition of an order of supervision under section 5-6-3.1 of the Unified Code of Corrections, as amended (730 ILCS 5/5-6-3.1), recover unless otherwise provided by law his or her driver's license (unless revoked or suspended) or the bond certificate deposited by him or her. Cash bail, or any balance due the defendant, shall be refunded to the defendant by the clerk as soon as practicable after the disposition of the charges.

(b) Written Plea of Guilty. In any case that can be disposed of on a written plea of guilty without a court appearance under Rule 529, including multiple citations issued in the same occurrence, the defendant may submit his or her written plea of guilty and pay the prescribed fines, penalties, and costs to the clerk of the circuit court of the county in which the violation occurred not earlier than 10 court days after arrest, and not later than 3 court days before the date set for appearance, unless the clerk waives these time limits. If cash bail was posted, the clerk shall apply the amount necessary to pay prescribed fines, penalties, and costs. If a driver's license or bond certificate was deposited or if a promise to comply or notice to appear was issued, the full amount of the prescribed fines, penalties, and costs must be paid to the clerk and accompanied by the written plea of guilty. Upon receiving a written plea of guilty and payment in full, the clerk shall, unless otherwise provided by law, return the driver's license or bond

certificate to the defendant. A written plea of guilty may be mailed to the clerk of the circuit court of the county in which the violation occurred. A plea of guilty may be transmitted electronically, if authorized by the Supreme Court. If the plea is accompanied by the full amount of the prescribed fines, penalties, and costs, the clerk shall mail to the defendant any driver's license or bond certificate deposited in lieu of bail.

Amended effective October 7, 1970; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended September 30, 2002, effective immediately; amended Dec. 29, 2017, eff. Jan. 1, 2018; amended June 8, 2018, eff. July 1, 2018.

Amended Rule 556

Rule 556. Procedure if Defendant Fails to Appear

(a) Promise to Comply or Driver's License Deposited. If a person accused of a traffic offense has executed a written promise to comply (see Rule 501(g)), or deposited his or her driver's license in lieu of or in addition to cash bail or cash deposit and bond, and does not appear on the date set for appearance, or any date to which the case may be continued, the court shall continue the case for a minimum of 30 days and require a notice of the continued court date to be sent to the defendant at his or her last known address. The clerk shall notify the defendant of the court's order. If the defendant does not appear on the continued court date or, within that period, satisfy the court that his or her appearance is impossible and without any fault on his or her part, the court shall enter an order of failure to appear to answer the charge(s). A verified charge may be filed (if none has previously been filed) and a summons or warrant of arrest for the defendant may be issued. Within 21 days after the date to which the case had been continued, the clerk shall notify the Secretary of State of the court's order. The Secretary of State shall, in the case of an Illinois licensed driver who has deposited his or her driver's license, immediately suspend the defendant's driving privileges in accordance with sections 6-306.3 or 6-308 of the Illinois Vehicle Code, as amended (625 ILCS 5/6-306.3 or 6-308); if the defendant is not an Illinois licensed driver or resident, the Secretary of State shall notify the appropriate driver's licensing authority ~~pursuant to the Nonresident Violator Compact of 1977, as amended (625 ILCS 5/6-800 et seq.)~~. The clerk of the circuit court shall notify the Secretary of State of the final disposition of the case as provided in Rule 552 when the defendant has appeared and otherwise satisfied his or her obligations following an order of failure to appear under this paragraph (a). For offenses where a court appearance is not required and the defendant does not appear on the date set for appearance, or any date to which the case may be continued, the ~~The~~ court may, in lieu of the foregoing procedure, enter an *ex parte* judgment of conviction against any accused charged with an offense punishable by a fine only and in so doing shall assess fines, penalties, and costs in an amount equal to the cash bail required by this article. For offenses punishable by fine only where a court appearance is required, the court may, with the concurrence of the prosecuting agency and in lieu of the foregoing procedure, enter an *ex parte* judgment of

conviction against any accused assessing fines, penalties, and costs in an amount equal to the cash bail required by this article, except for offenses for which a minimum statutory fine is greater than the cash bail amount. For a fine only offense where the minimum statutory fine is greater than the cash bail amount, the fines, penalties, and costs assessed shall be equal to the minimum statutory fine. Payment received for fines, penalties, and costs assessed following the entry of an *ex parte* judgment shall be disbursed by the clerk pursuant to Rule 529. The clerk of the court shall notify the Secretary of State of the conviction pursuant to Rule 552, and if the accused is an Illinois registered driver, the clerk shall notify the Secretary of State of the unsatisfied judgment pursuant to section 6-306.6(a) of the Illinois Vehicle Code, as amended (625 ILCS 5/6-306.6(a)).

(b) Court Appearance Not Required-Cash Bail Posted or Bond Certificate Deposited. In all cases in which a court appearance is not required under Rule 551 and cash bail is posted or a bond certificate deposited, the defendant shall be provided with a statement, in substantially the following form, on the “Complaint” or on the bond form:

“In the event you fail to appear in court to answer a charge that does not require you to appear in court, you thereby consent to the entry of a judgment against you in the amount of all applicable fines, penalties, and costs, and the application of the cash bail or other security you have deposited to their payment and satisfaction.”

If the defendant does not appear on the date set for appearance, or any date to which the case may be continued, the court may enter an *ex parte* judgment against the defendant assessing fines, penalties, and costs in an amount equal to the cash bail required by this article. The clerk of the circuit court shall apply the cash bail or security in payment thereof pursuant to Rule 529.

(c) Court Appearance Required—Cash Bail Posted or Bond Certificate Deposited. If a defendant fails to appear on the date set for appearance, or any date to which the case may be continued, and a court appearance is required, the court shall enter an order declaring the bail to be forfeited and continue the case for a minimum of 30 days. Notice of such order of forfeiture shall be mailed forthwith to the accused at his or her last known address. If the accused does not appear on the continued court date or, within that period, satisfy the court that his or her appearance is impossible and without any fault on his or her part, the court shall enter judgment in accordance with sections 110-7 and 110-8 of the Code of Criminal Procedure of 1963, as amended (725 ILCS 5/110-7, 110-8). In addition to forfeiture, a verified charge may be filed and a summons or warrant of arrest may issue. The court may, with the concurrence of the prosecuting agency, in lieu of the foregoing procedure, enter an *ex parte* judgment of conviction against any accused charged with an offense punishable by a fine only and in so doing shall assess fines, penalties, and costs in an amount equal to the cash bail required by this article, except for offenses for which a minimum statutory fine is greater than the cash bail amount. For a fine only offense where the minimum statutory fine is greater than the cash bail amount, the fines, penalties, and costs assessed shall be equal to the minimum statutory fine. Payment received for fines, penalties, and costs assessed following the entry of an *ex parte* judgment shall be disbursed by the clerk pursuant to Rule 529. The clerk of court shall notify the Secretary of State of the conviction pursuant to Rule 552 and of any unsatisfied judgment pursuant to section 6-306.6(a) of the Illinois Vehicle Code, as amended (625 ILCS 5/6-306.6(a)).

(d) Individual Bonds. In all cases in which a defendant released by giving individual bond under Rule 553(d) fails to appear on the date set for appearance, or any date to which the case may be continued, the court shall enter an order declaring the bond to be forfeited and continue the case for a minimum of 30 days. Notice of such order of forfeiture shall be mailed forthwith to the accused at his or her last known address. If the accused does not appear on the continued court date or, within that period, satisfy the court that his or her appearance is impossible and without any fault on his or her part, the court shall enter judgment in accordance with section 110-8 of the Code of Criminal Procedure of 1963, as amended (725 ILCS 5/110-8). In addition to forfeiture, a verified charge may be filed, and a summons or warrant of arrest may issue. For offenses where a court appearance is not required and the defendant does not appear on the set date of appearance, or any date to which the case may be continued, the ~~The~~ court may in lieu of the foregoing procedure, enter an *ex parte* judgment of conviction against any accused charged with an offense punishable by a fine only and in so doing shall assess fines, penalties, and costs in an amount equal to the cash bail required by this article. For offenses punishable by fine only where a court appearance is required, the court may, with the concurrence of the prosecuting agency and in lieu of the foregoing procedure, enter an *ex parte* judgment of conviction against any accused, assessing fines, penalties, and costs in an amount equal to the cash bail amount. For a fine only offense where the minimum statutory fine is greater than the cash bail amount, the fines, penalties, and costs assessed shall be equal to the minimum statutory fine. Payment received for fines, penalties, and costs assessed following the entry of an *ex parte* judgment shall be disbursed by the clerk pursuant to Rule 529. The clerk of the court shall notify the Secretary of State of the conviction pursuant to Rule 552 and of the unsatisfied judgment pursuant to section 6-306.6(a) of the Illinois Vehicle Code, as amended (625 ILCS 5/6-306.6(a)).

(e) Notice to Appear. In all cases in which a defendant is issued a Notice to Appear under section 107-12 of the Code of Criminal Procedure of 1963, as amended (725 ILCS 5/107-12), for an offense that does not require a court appearance, and fails to appear on the date set for appearance, or any date to which the case may be continued, the court may enter an *ex parte* judgment of conviction against an accused charged with an offense punishable by a fine only and in so doing shall assess fines, penalties, and costs in an amount equal to the cash bail required by this article. For offenses punishable by fine only where a court appearance is required, the court may, with the concurrence of the prosecuting agency and in lieu of the foregoing procedure, enter an *ex parte* judgment of conviction against any accused assessing fines, penalties, and costs in an amount equal to the cash bail required by this article, except for offenses for which a minimum statutory fine is greater than the cash bail amount. For a fine only offense where the minimum statutory fine is greater than the cash bail amount, the fines, penalties, and costs assessed shall be equal to the minimum statutory fine. Payment received for fines, penalties, and costs assessed following the entry of an *ex parte* judgment shall be disbursed by the clerk pursuant to Rule 529. The clerk of the court shall notify the Secretary of State of the conviction pursuant to Rule 552 and of the unsatisfied judgment pursuant to section 6-306.6(a) of the Illinois Vehicle Code, as amended (625 ILCS 5/6-306.6(a)). In lieu of the foregoing procedure, a summons or warrant of arrest may be issued.

Amended effective October 7, 1970; amended February 17, 1977, effective April 1, 1977, in counties

other than Cook, effective July 1, 1977, in Cook County; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended December 7, 1990, effective January 1, 1991; amended May 24, 1995, effective January 1, 1996; amended October 22, 1999, effective December 1, 1999; amended December 5, 2003, effective January 1, 2004; amended December 30, 2014, eff. Jan. 1, 2015; amended June 8, 2018, eff. July 1, 2018.

Committee Comments
(June 8, 2018)

“For a fine only offense where the minimum statutory fine is greater than the cash bail amount, the fines, penalties, and costs assessed shall be equal to the minimum statutory fine in whole dollars” language was added to eliminate conflicts between bail amounts that are not equal to minimum statutory fines; if a prosecuting agency agrees to an *ex parte* judgment, defendants are being assessed widely differing fine amounts. For example, violations of operating without insurance (625 ILCS 5/3-707) require bail of \$2000 under Rule 526(d). However, the statute states “a person shall be required to pay a fine in excess of \$500, but not more than \$1,000.” Defendants were being assessed fines in various amounts, and in some cases, defendants that did not appear in court and the court entered an *ex parte* judgment paid a lower fine than a defendant that appeared in court as required by the Rule. A variety of fine amounts were being assessed, such as: a fine of \$200 (10% of the bail amount), a fine of \$500.01 or \$501 under statute, a fine of \$1000 under statute, or a fine of \$2,000—the full bail amount under Rule 526(d). These amendments are meant to eliminate varying fine amounts being assessed to defendants. When the minimum statutory fine is “in excess of” or “more than” a specified amount, the court should assess the fine to the next whole dollar amount.

(December 5, 2003)

Supreme Court Rule 556 (“Procedure if Defendant Fails to Appear”) delineates several procedures if the defendant fails to appear after depositing a driver’s license in lieu of bond, executes a written promise to comply, posts bond or issued a notice to appear.

The rule provided that the court may “enter an *ex parte* judgment of conviction against any accused charged with an offense punishable by a fine only and in so doing shall assess fines, penalties, and costs in an amount not to exceed the cash bail required by this article.” Rule 556 does not detail the specific costs and penalties, or their amounts, in the entry of *ex parte* judgments. The clerk is then left with deciding which costs, fees and additional penalties (and their amounts) should be applied. This is currently being determined on a county by county basis.

The committee concluded that distribution under Rule 556 was not a “levy of a gross amount.” See Rule 529, Committee Comments.

The committee believes that consistency and uniformity in disbursing funds from *ex parte* judgments was of the utmost importance in the efficient administration of justice and recommends that the fines, penalties, and costs assessed be equal to bail, and the distribution

of those amounts should be pursuant to Supreme Court Rule 529(a). The State's Attorney fee, if any, would be included within the county's 38.675% distribution.