



## Fiscal Estimate Narratives

CTS 2/20/2006

LRB Number	05-2035/3	Introduction Number	AB-969	Estimate Type	Original
<b>Description</b> Applying cash deposited for bail to restitution payments or to recompense ordered in criminal cases					

### Assumptions Used in Arriving at Fiscal Estimate

This bill establishes additional requirements and procedures for criminal actions in which a cash bail is posted. Under current law, if a person charged with a crime pays a cash bond, then fails to fulfill the conditions of the bond (usually by failing to appear at a specified court appearance), the cash bond is forfeited and used to pay costs and any judgment of forfeiture that is entered.

Under this bill, a forfeited cash bond would be first applied to the payment of any restitution ordered under s. 973.20.

In addition, the bill creates a new category of obligation called recompense for any victim or victim's estate. The court is required to determine the recompense amount in the same manner that it would determine a restitution amount under s. 973.20. The bill then requires that if a cash bond is forfeited for failure to fulfill the conditions of the bond, the forfeited bond would first be applied to the payment of any recompense until paid in full, then to the payment of costs.

The bill further requires that, at the time of sentencing, the court inquire whether any ordered recompense has been paid out of a forfeited bond. The bill requires that if recompense has been made and the amount of restitution ordered is less than or equal to the recompense, then "the restitution shall be paid only to the general fund." In the event the amount of restitution ordered is greater than the recompense, then "the general fund shall receive an amount equal to the recompense and the balance shall be paid to the victim."

It would appear the state general fund would receive additional payments under this bill to which it is currently not entitled (under Section 12 of the bill). It is impossible to accurately estimate what amount of additional payments may be made to the general fund because the amount is dependent on a number of variables, including the following:

- The amounts of recompense ordered by courts and how those amounts compare to the amounts of restitution subsequently ordered.
- The number of defendants who will forfeit cash bond because they have failed to fulfill the conditions of the bond.
- The extent to which amounts of restitution ordered under s. 973.20 are collected from defendants.

In addition, it may be necessary for the court to conduct additional hearings to determine an amount of recompense. Additional court proceedings require additional judge, court reporter, court staff and juror time. These costs are borne by the state and the county

### Long-Range Fiscal Implications