



102ND GENERAL ASSEMBLY
State of Illinois
2021 and 2022

SB4228

Bennett

INTRODUCED _____, BY

SYNOPSIS AS INTRODUCED:

See Index

Amends the Code of Criminal Procedure of 1963 concerning pretrial detention. In the definition of "willful flight", provides that past non-appearance in court is conclusive evidence of future intent to evade prosecution (rather than simple past non-appearance in court alone is not evidence of future intent to evade prosecution). Provides that monetary bail is abolished for all petty, traffic, and criminal offenses committed on or after January 1, 2023. Provides that the court may deny a defendant pretrial release if the defendant is charged with a forcible felony offense for which a sentence of imprisonment, based on the charge or the defendant's criminal history, without probation, periodic imprisonment, or conditional discharge, is required by law upon conviction. Eliminates the requirement for pretrial detention that it be alleged that the defendant's pretrial release poses a specific, real and present threat to any person or the community. Provides that in addition to other provisions permitting the court to deny a defendant pretrial release, the court may deny a defendant pretrial release if the defendant is charged with any other crime for which the court believes there is a serious risk that: (1) the defendant will not appear in court as required; (2) the defendant will pose a danger to any other person or the community; or (3) the defendant will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror. Provides that if the court enters an order for the detention of the defendant, the defendant shall be brought to trial on the offense for which he is detained within 120 (rather than 90) days after entry of the order of detention. Makes other changes concerning pretrial release of a defendant. Effective January 1, 2023.

LRB102 28993 RLC 40966 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Sections 109-1, 110-1, 110-1.5, 110-2,
6 110-3, 110-4, 110-5, 110-6, and 110-6.1 as follows:

7 (725 ILCS 5/109-1) (from Ch. 38, par. 109-1)

8 (Text of Section before amendment by P.A. 101-652)

9 Sec. 109-1. Person arrested.

10 (a) A person arrested with or without a warrant shall be
11 taken without unnecessary delay before the nearest and most
12 accessible judge in that county, except when such county is a
13 participant in a regional jail authority, in which event such
14 person may be taken to the nearest and most accessible judge,
15 irrespective of the county where such judge presides, and a
16 charge shall be filed. Whenever a person arrested either with
17 or without a warrant is required to be taken before a judge, a
18 charge may be filed against such person by way of a two-way
19 closed circuit television system, except that a hearing to
20 deny bail to the defendant may not be conducted by way of
21 closed circuit television.

22 (a-5) A person charged with an offense shall be allowed
23 counsel at the hearing at which bail is determined under

1 Article 110 of this Code. If the defendant desires counsel for
2 his or her initial appearance but is unable to obtain counsel,
3 the court shall appoint a public defender or licensed attorney
4 at law of this State to represent him or her for purposes of
5 that hearing.

6 (b) The judge shall:

7 (1) Inform the defendant of the charge against him and
8 shall provide him with a copy of the charge;

9 (2) Advise the defendant of his right to counsel and
10 if indigent shall appoint a public defender or licensed
11 attorney at law of this State to represent him in
12 accordance with the provisions of Section 113-3 of this
13 Code;

14 (3) Schedule a preliminary hearing in appropriate
15 cases;

16 (4) Admit the defendant to bail in accordance with the
17 provisions of Article 110 of this Code; and

18 (5) Order the confiscation of the person's passport or
19 impose travel restrictions on a defendant arrested for
20 first degree murder or other violent crime as defined in
21 Section 3 of the Rights of Crime Victims and Witnesses
22 Act, if the judge determines, based on the factors in
23 Section 110-5 of this Code, that this will reasonably
24 ensure the appearance of the defendant and compliance by
25 the defendant with all conditions of release.

26 (c) The court may issue an order of protection in

1 accordance with the provisions of Article 112A of this Code.

2 (d) At the initial appearance of a defendant in any
3 criminal proceeding, the court must advise the defendant in
4 open court that any foreign national who is arrested or
5 detained has the right to have notice of the arrest or
6 detention given to his or her country's consular
7 representatives and the right to communicate with those
8 consular representatives if the notice has not already been
9 provided. The court must make a written record of so advising
10 the defendant.

11 (e) If consular notification is not provided to a
12 defendant before his or her first appearance in court, the
13 court shall grant any reasonable request for a continuance of
14 the proceedings to allow contact with the defendant's
15 consulate. Any delay caused by the granting of the request by a
16 defendant shall temporarily suspend for the time of the delay
17 the period within which a person shall be tried as prescribed
18 by subsections (a), (b), or (e) of Section 103-5 of this Code
19 and on the day of the expiration of delay the period shall
20 continue at the point at which it was suspended.

21 (Source: P.A. 102-813, eff. 5-13-22.)

22 (Text of Section after amendment by P.A. 101-652)

23 Sec. 109-1. Person arrested; release from law enforcement
24 custody and court appearance; geographic ~~geographical~~
25 constraints prevent in-person appearances.

1 (a) A person arrested with or without a warrant for an
2 offense for which pretrial release may be denied under
3 paragraphs (1) through (6) of Section 110-6.1 shall be taken
4 without unnecessary delay before the nearest and most
5 accessible judge in that county, except when such county is a
6 participant in a regional jail authority, in which event such
7 person may be taken to the nearest and most accessible judge,
8 irrespective of the county where such judge presides, and a
9 charge shall be filed. Whenever a person arrested either with
10 or without a warrant is required to be taken before a judge, a
11 charge may be filed against such person by way of a two-way
12 closed circuit television system, except that a hearing to
13 deny pretrial release to the defendant may not be conducted by
14 way of closed circuit television.

15 (a-1) Law enforcement shall issue a citation in lieu of
16 custodial arrest, upon proper identification, for those
17 accused of any offense that is not a felony or a Class A
18 misdemeanor, unless a law enforcement officer reasonably
19 believes the accused poses a threat to the community or any
20 person or the officer reasonably believes that a custodial
21 arrest is necessary to discontinue the criminal behavior, or
22 has an traffic and Class B and C criminal misdemeanor
23 offenses, or of petty and business offenses, who pose no
24 obvious threat to the community or any person, or who have no
25 obvious medical or mental health issues that poses pose a risk
26 to their own safety. Those released on citation shall be

1 ~~scheduled into court within 21 days.~~

2 (a-3) A person arrested with or without a warrant for an
3 offense for which pretrial release may not be denied may,
4 except as otherwise provided in this Code, be released by the
5 officer without appearing before a judge. The releasing
6 officer shall issue the person a summons to appear within 21
7 days. ~~A presumption in favor of pretrial release shall be
8 applied by an arresting officer in the exercise of his or her
9 discretion under this Section.~~

10 (a-5) A person charged with an offense shall be allowed
11 counsel at the hearing at which pretrial release is determined
12 under Article 110 of this Code. If the defendant desires
13 counsel for his or her initial appearance but is unable to
14 obtain counsel, the court shall appoint a public defender or
15 licensed attorney at law of this State to represent him or her
16 for purposes of that hearing.

17 (b) Upon initial appearance of a person before the court,
18 the judge shall:

19 (1) inform the defendant of the charge against him and
20 shall provide him with a copy of the charge;

21 (2) advise the defendant of his right to counsel and
22 if indigent shall appoint a public defender or licensed
23 attorney at law of this State to represent him in
24 accordance with the provisions of Section 113-3 of this
25 Code;

26 (3) schedule a preliminary hearing in appropriate

1 cases;

2 (4) admit the defendant to pretrial release in
3 accordance with the provisions of Article 110 of this
4 Code, or upon verified petition of the State, proceed with
5 the setting of a detention hearing as provided in Section
6 110-6.1; and

7 (5) order the confiscation of the person's passport or
8 impose travel restrictions on a defendant arrested for
9 first degree murder or other violent crime as defined in
10 Section 3 of the Rights of Crime Victims and Witnesses
11 Act, if the judge determines, based on the factors in
12 Section 110-5 of this Code, that this will reasonably
13 ensure the appearance of the defendant and compliance by
14 the defendant with all conditions of release.

15 (c) The court may issue an order of protection in
16 accordance with the provisions of Article 112A of this Code.
17 Crime victims shall be given notice by the State's Attorney's
18 office of this hearing as required in paragraph (2) of
19 subsection (b) of Section 4.5 of the Rights of Crime Victims
20 and Witnesses Act and shall be informed of their opportunity
21 at this hearing to obtain an order of protection under Article
22 112A of this Code.

23 (d) At the initial appearance of a defendant in any
24 criminal proceeding, the court must advise the defendant in
25 open court that any foreign national who is arrested or
26 detained has the right to have notice of the arrest or

1 detention given to his or her country's consular
2 representatives and the right to communicate with those
3 consular representatives if the notice has not already been
4 provided. The court must make a written record of so advising
5 the defendant.

6 (e) If consular notification is not provided to a
7 defendant before his or her first appearance in court, the
8 court shall grant any reasonable request for a continuance of
9 the proceedings to allow contact with the defendant's
10 consulate. Any delay caused by the granting of the request by a
11 defendant shall temporarily suspend for the time of the delay
12 the period within which a person shall be tried as prescribed
13 by subsection (a), (b), or (e) of Section 103-5 of this Code
14 and on the day of the expiration of delay the period shall
15 continue at the point at which it was suspended.

16 (f) At the hearing at which conditions of pretrial release
17 are determined, the person charged shall be present in person
18 rather than by video phone or any other form of electronic
19 communication, unless the physical health and safety of the
20 person would be endangered by appearing in court or the
21 accused waives the right to be present in person.

22 (g) Defense counsel shall be given adequate opportunity to
23 confer with the defendant prior to any hearing in which
24 conditions of release or the detention of the defendant is to
25 be considered, with a physical accommodation made to
26 facilitate attorney/client consultation.

1 (Source: P.A. 101-652, eff. 1-1-23; 102-813, eff. 5-13-22.)

2 (725 ILCS 5/110-1) (from Ch. 38, par. 110-1)

3 (Text of Section before amendment by P.A. 101-652)

4 Sec. 110-1. Definitions.

5 (a) "Security" is that which is required to be pledged to
6 insure the payment of bail.

7 (b) "Sureties" encompasses the monetary and nonmonetary
8 requirements set by the court as conditions for release either
9 before or after conviction. "Surety" is one who executes a
10 bail bond and binds himself to pay the bail if the person in
11 custody fails to comply with all conditions of the bail bond.

12 (c) The phrase "for which a sentence of imprisonment,
13 without conditional and revocable release, shall be imposed by
14 law as a consequence of conviction" means an offense for which
15 a sentence of imprisonment, without probation, periodic
16 imprisonment or conditional discharge, is required by law upon
17 conviction.

18 (d) "Real and present threat to the physical safety of any
19 person or persons", as used in this Article, includes a threat
20 to the community, person, persons or class of persons.

21 (Source: P.A. 85-892; 102-813, eff. 5-13-22.)

22 (Text of Section after amendment by P.A. 101-652)

23 Sec. 110-1. Definitions. As used in this Article:

24 (a) (Blank).

1 (b) "Sureties" encompasses the monetary and nonmonetary
2 requirements set by the court as conditions for release either
3 before or after conviction.

4 (c) The phrase "for which a sentence of imprisonment,
5 without conditional and revocable release, shall be imposed by
6 law as a consequence of conviction" means an offense for which
7 a sentence of imprisonment, without probation, periodic
8 imprisonment or conditional discharge, is required by law upon
9 conviction.

10 (d) (Blank).

11 (e) "Willful flight" means planning or attempting to
12 intentionally evade prosecution by concealing oneself. Past
13 ~~Simple past~~ non-appearance in court ~~alone~~ is conclusive ~~not~~
14 evidence of future intent to evade prosecution.

15 (Source: P.A. 101-652, eff. 1-1-23; 102-813, eff. 5-13-22.)

16 (725 ILCS 5/110-1.5)

17 (This Section may contain text from a Public Act with a
18 delayed effective date)

19 Sec. 110-1.5. Abolition of monetary bail. On and after
20 January 1, 2023, the requirement of posting monetary bail is
21 abolished for all petty, traffic, and criminal offenses
22 committed on or after January 1, 2023, except as provided in
23 the Uniform Criminal Extradition Act, the Driver License
24 Compact, or the Nonresident Violator Compact which are
25 compacts that have been entered into between this State and

1 its sister states.

2 (Source: P.A. 101-652, eff. 1-1-23.)

3 (725 ILCS 5/110-2) (from Ch. 38, par. 110-2)

4 (Text of Section before amendment by P.A. 101-652)

5 Sec. 110-2. Release on own recognizance. When from all the
6 circumstances the court is of the opinion that the defendant
7 will appear as required either before or after conviction and
8 the defendant will not pose a danger to any person or the
9 community and that the defendant will comply with all
10 conditions of bond, which shall include the defendant's
11 current address with a written admonishment to the defendant
12 that he or she must comply with the provisions of Section
13 110-12 of this Code regarding any change in his or her address,
14 the defendant may be released on his or her own recognizance.
15 The defendant's address shall at all times remain a matter of
16 public record with the clerk of the court. A failure to appear
17 as required by such recognizance shall constitute an offense
18 subject to the penalty provided in Section 32-10 of the
19 Criminal Code of 2012 for violation of the bail bond, and any
20 obligated sum fixed in the recognizance shall be forfeited and
21 collected in accordance with subsection (g) of Section 110-7
22 of this Code.

23 This Section shall be liberally construed to effectuate
24 the purpose of relying upon contempt of court proceedings or
25 criminal sanctions instead of financial loss to assure the

1 appearance of the defendant, and that the defendant will not
2 pose a danger to any person or the community and that the
3 defendant will comply with all conditions of bond. Monetary
4 bail should be set only when it is determined that no other
5 conditions of release will reasonably assure the defendant's
6 appearance in court, that the defendant does not present a
7 danger to any person or the community and that the defendant
8 will comply with all conditions of bond.

9 The State may appeal any order permitting release by
10 personal recognizance.

11 (Source: P.A. 97-1150, eff. 1-25-13.)

12 (Text of Section after amendment by P.A. 101-652)

13 Sec. 110-2. Release on own recognizance.

14 (a) Except for offenses for which a sentence of life
15 imprisonment may be imposed, it ~~is~~ is presumed that a
16 defendant is entitled to release on personal recognizance on
17 the condition that the defendant attend all required court
18 proceedings and the defendant does not commit any criminal
19 offense, and complies with all terms of pretrial release,
20 including, but not limited to, orders of protection under both
21 Section 112A-4 of this Code and Section 214 of the Illinois
22 Domestic Violence Act of 1986, all civil no contact orders,
23 and all stalking no contact orders.

24 (b) Additional conditions of release, including those
25 highlighted above, shall be set only when it is determined

1 that they are necessary to assure the defendant's appearance
2 in court, to protect any person or the community, assure the
3 defendant does not commit any criminal offense, assure that
4 the defendant will not obstruct or attempt to obstruct
5 justice, or threaten, injure, intimidate, or attempt to
6 threaten, injure, or intimidate a prospective witness or
7 juror, and complies with all conditions of pretrial release.

8 (c) ~~The Detention only shall be imposed when it is~~
9 ~~determined that the defendant poses a specific, real and~~
10 ~~present threat to a person, or has a high likelihood of willful~~
11 ~~flight. If the court deems that the defendant is to be released~~
12 ~~on personal recognizance, the court may require that a written~~
13 ~~admonishment be signed by the defendant requiring that he or~~
14 ~~she~~ must comply with the provisions of Section 110-12 of this
15 Code regarding any change in his or her address. The defendant
16 may be released on his or her own recognizance upon signature.
17 The defendant's address shall at all times remain a matter of
18 public record with the clerk of the court. A failure to appear
19 as required by such recognizance shall constitute an offense
20 subject to the penalty provided in Section 32-10 of the
21 Criminal Code of 2012 for violation of the conditions of
22 pretrial release.

23 (d) If, after the procedures set out in Section 110-6.1,
24 the court decides to detain the defendant, the Court must make
25 a written finding as to why it believes there is a serious risk
26 that the defendant will not appear in court as required; the

1 defendant will pose a danger to any other person or the
2 community; the defendant will obstruct or attempt to obstruct
3 justice, or threaten, injure, or intimidate, or attempt to
4 threaten, injure, or intimidate a prospective juror or witness
5 ~~less restrictive conditions would not assure safety to the~~
6 ~~community and assure the defendant's appearance in court.~~ At
7 each subsequent appearance of the defendant before the Court,
8 the judge must find that continued detention or the current
9 set of conditions imposed are necessary to assure the
10 defendant will appear in court as required; the defendant will
11 pose a danger to any other person or the community, the
12 defendant will obstruct or attempt to obstruct justice, or
13 threaten, injure, or intimidate, or attempt to threaten,
14 injure, or intimidate a prospective juror or witness ~~to avoid~~
15 ~~the specific, real and present threat to any person or of~~
16 ~~willful flight from prosecution to continue detention of the~~
17 ~~defendant.~~ The court is not required to be presented with new
18 information or a change in circumstance to consider
19 reconsidering pretrial detention on current conditions.

20 (e) This Section shall be liberally construed to
21 effectuate the purpose of relying upon pretrial release by
22 nonmonetary means to reasonably assure an eligible defendant's
23 appearance in court when required, the protection of the
24 safety of any other person or the community, that the
25 defendant will not obstruct or attempt to obstruct the
26 criminal justice process, and that the defendant will comply

1 with all conditions of release, while authorizing the court,
2 upon motion of a prosecutor, to order pretrial detention of
3 the defendant when it finds clear and convincing evidence that
4 no condition or combination of conditions can reasonably
5 assure the effectuation of these goals ~~This Section shall be~~
6 ~~liberally construed to effectuate the purpose of relying upon~~
7 ~~contempt of court proceedings or criminal sanctions instead of~~
8 ~~financial loss to assure the appearance of the defendant, and~~
9 ~~that the defendant will not pose a danger to any person or the~~
10 ~~community and that the defendant will not pose a danger to any~~
11 ~~person or the community and that the defendant will comply~~
12 ~~with all conditions of pretrial release.~~

13 (Source: P.A. 101-652, eff. 1-1-23.)

14 (725 ILCS 5/110-3) (from Ch. 38, par. 110-3)

15 (Text of Section before amendment by P.A. 101-652)

16 Sec. 110-3. Issuance of warrant. Upon failure to comply
17 with any condition of a bail bond or recognizance, the court
18 having jurisdiction at the time of such failure may, in
19 addition to any other action provided by law, issue a warrant
20 for the arrest of the person at liberty on bail or his own
21 recognizance. The contents of such a warrant shall be the same
22 as required for an arrest warrant issued upon complaint. When
23 a defendant is at liberty on bail or his own recognizance on a
24 felony charge and fails to appear in court as directed, the
25 court shall issue a warrant for the arrest of such person. Such

1 warrant shall be noted with a directive to peace officers to
2 arrest the person and hold such person without bail and to
3 deliver such person before the court for further proceedings.
4 A defendant who is arrested or surrenders within 30 days of the
5 issuance of such warrant shall not be bailable in the case in
6 question unless he shows by the preponderance of the evidence
7 that his failure to appear was not intentional.

8 (Source: P.A. 102-813, eff. 5-13-22.)

9 (Text of Section after amendment by P.A. 101-652)

10 Sec. 110-3. Issuance of warrant and options ~~Options~~ for
11 warrant alternatives.

12 (a) Upon failure to comply with any condition of pretrial
13 release or recognizance, the court having jurisdiction at the
14 time of such failure may, on its own motion or upon motion from
15 the State, issue an order to show cause as to why he or she
16 shall not be subject to revocation of pretrial release, or for
17 sanctions, as provided in Section 110-6 or issue a warrant for
18 the defendant. Nothing in this Section prohibits the court
19 from issuing a warrant ~~under subsection (c)~~ upon failure to
20 comply with any condition of pretrial release or recognizance.

21 (b) The order issued by the court shall state the facts
22 alleged to constitute the hearing to show cause or otherwise
23 why the person is subject to revocation of pretrial release. A
24 certified copy of the order shall be served upon the person at
25 least 48 hours in advance of the scheduled hearing.

1 (c) If the person does not appear at the hearing to show
2 cause or absconds, the court may, in addition to any other
3 action provided by law, issue a warrant for the arrest of the
4 person at liberty on pretrial release. The contents of such a
5 warrant shall be the same as required for an arrest warrant
6 issued upon complaint and may modify any previously imposed
7 conditions placed upon the person, rather than revoking
8 pretrial release or issuing a warrant for the person in
9 accordance with the requirements in subsections (d) and (e) of
10 Section 110-5. When a defendant is at liberty on pretrial
11 release or his own recognizance on a felony charge and fails to
12 appear in court as directed, the court may issue a warrant for
13 the arrest of such person ~~after his or her failure to appear at~~
14 ~~the show for cause hearing as provided in this Section.~~ Such
15 warrant shall be noted with a directive to peace officers to
16 arrest the person and hold such person without pretrial
17 release and to deliver such person before the court for
18 further proceedings.

19 (d) If the order as described in subsection (b) is issued,
20 a failure to appear shall not be recorded until the defendant
21 fails to appear at the hearing to show cause. ~~For the purpose~~
22 ~~of any risk assessment or future evaluation of risk of willful~~
23 ~~flight or risk of failure to appear, a non appearance in court~~
24 ~~cured by an appearance at the hearing to show cause shall not~~
25 ~~be considered as evidence of future likelihood of appearance~~
26 ~~in court.~~

1 (Source: P.A. 101-652, eff. 1-1-23; 102-813, eff. 5-13-22.)

2 (725 ILCS 5/110-4) (from Ch. 38, par. 110-4)

3 (Text of Section before amendment by P.A. 101-652)

4 Sec. 110-4. Bailable Offenses.

5 (a) All persons shall be bailable before conviction,
6 except the following offenses where the proof is evident or
7 the presumption great that the defendant is guilty of the
8 offense: capital offenses; offenses for which a sentence of
9 life imprisonment may be imposed as a consequence of
10 conviction; felony offenses for which a sentence of
11 imprisonment, without conditional and revocable release, shall
12 be imposed by law as a consequence of conviction, where the
13 court after a hearing, determines that the release of the
14 defendant would pose a real and present threat to the physical
15 safety of any person or persons; stalking or aggravated
16 stalking, where the court, after a hearing, determines that
17 the release of the defendant would pose a real and present
18 threat to the physical safety of the alleged victim of the
19 offense and denial of bail is necessary to prevent fulfillment
20 of the threat upon which the charge is based; or unlawful use
21 of weapons in violation of item (4) of subsection (a) of
22 Section 24-1 of the Criminal Code of 1961 or the Criminal Code
23 of 2012 when that offense occurred in a school or in any
24 conveyance owned, leased, or contracted by a school to
25 transport students to or from school or a school-related

1 activity, or on any public way within 1,000 feet of real
2 property comprising any school, where the court, after a
3 hearing, determines that the release of the defendant would
4 pose a real and present threat to the physical safety of any
5 person and denial of bail is necessary to prevent fulfillment
6 of that threat; or making a terrorist threat in violation of
7 Section 29D-20 of the Criminal Code of 1961 or the Criminal
8 Code of 2012 or an attempt to commit the offense of making a
9 terrorist threat, where the court, after a hearing, determines
10 that the release of the defendant would pose a real and present
11 threat to the physical safety of any person and denial of bail
12 is necessary to prevent fulfillment of that threat.

13 (b) A person seeking release on bail who is charged with a
14 capital offense or an offense for which a sentence of life
15 imprisonment may be imposed shall not be bailable until a
16 hearing is held wherein such person has the burden of
17 demonstrating that the proof of his guilt is not evident and
18 the presumption is not great.

19 (c) Where it is alleged that bail should be denied to a
20 person upon the grounds that the person presents a real and
21 present threat to the physical safety of any person or
22 persons, the burden of proof of such allegations shall be upon
23 the State.

24 (d) When it is alleged that bail should be denied to a
25 person charged with stalking or aggravated stalking upon the
26 grounds set forth in Section 110-6.3 of this Code, the burden

1 of proof of those allegations shall be upon the State.

2 (Source: P.A. 97-1150, eff. 1-25-13.)

3 (Text of Section after amendment by P.A. 101-652)

4 Sec. 110-4. Pretrial release.

5 (a) All persons charged with an offense shall be eligible
6 for pretrial release before conviction. Pretrial release may
7 only be denied when a person is charged with an offense for
8 which a sentence of life imprisonment may be imposed as a
9 consequence of conviction, an offense listed in Section
10 110-6.1 ~~or when the defendant has a high likelihood of willful~~
11 ~~flight~~, and after the court has held a hearing under Section
12 110-6.1.

13 (b) A person seeking pretrial release who is charged with
14 a capital offense or an offense for which a sentence of life
15 imprisonment may be imposed shall not be eligible for release
16 pretrial until a hearing is held wherein such person has the
17 burden of demonstrating that the proof of his guilt is not
18 evident and the presumption is not great.

19 (c) Where it is alleged that pretrial should be denied to a
20 person upon the grounds that the person presents a real and
21 present threat to the physical safety of any person or
22 persons, the burden of proof of such allegations shall be upon
23 the State.

24 (d) When it is alleged that pretrial should be denied to a
25 person charged with stalking or aggravated stalking upon the

1 grounds set forth in Section 110-6.3 of this Code, the burden
2 of proof of those allegations shall be upon the State.

3 (Source: P.A. 101-652, eff. 1-1-23.)

4 (725 ILCS 5/110-5) (from Ch. 38, par. 110-5)

5 (Text of Section before amendment by P.A. 101-652)

6 Sec. 110-5. Determining the amount of bail and conditions
7 of release.

8 (a) In determining the amount of monetary bail or
9 conditions of release, if any, which will reasonably assure
10 the appearance of a defendant as required or the safety of any
11 other person or the community and the likelihood of compliance
12 by the defendant with all the conditions of bail, the court
13 shall, on the basis of available information, take into
14 account such matters as the nature and circumstances of the
15 offense charged, whether the evidence shows that as part of
16 the offense there was a use of violence or threatened use of
17 violence, whether the offense involved corruption of public
18 officials or employees, whether there was physical harm or
19 threats of physical harm to any public official, public
20 employee, judge, prosecutor, juror or witness, senior citizen,
21 child, or person with a disability, whether evidence shows
22 that during the offense or during the arrest the defendant
23 possessed or used a firearm, machine gun, explosive or metal
24 piercing ammunition or explosive bomb device or any military
25 or paramilitary armament, whether the evidence shows that the

1 offense committed was related to or in furtherance of the
2 criminal activities of an organized gang or was motivated by
3 the defendant's membership in or allegiance to an organized
4 gang, the condition of the victim, any written statement
5 submitted by the victim or proffer or representation by the
6 State regarding the impact which the alleged criminal conduct
7 has had on the victim and the victim's concern, if any, with
8 further contact with the defendant if released on bail,
9 whether the offense was based on racial, religious, sexual
10 orientation or ethnic hatred, the likelihood of the filing of
11 a greater charge, the likelihood of conviction, the sentence
12 applicable upon conviction, the weight of the evidence against
13 such defendant, whether there exists motivation or ability to
14 flee, whether there is any verification as to prior residence,
15 education, or family ties in the local jurisdiction, in
16 another county, state or foreign country, the defendant's
17 employment, financial resources, character and mental
18 condition, past conduct, prior use of alias names or dates of
19 birth, and length of residence in the community, the consent
20 of the defendant to periodic drug testing in accordance with
21 Section 110-6.5, whether a foreign national defendant is
22 lawfully admitted in the United States of America, whether the
23 government of the foreign national maintains an extradition
24 treaty with the United States by which the foreign government
25 will extradite to the United States its national for a trial
26 for a crime allegedly committed in the United States, whether

1 the defendant is currently subject to deportation or exclusion
2 under the immigration laws of the United States, whether the
3 defendant, although a United States citizen, is considered
4 under the law of any foreign state a national of that state for
5 the purposes of extradition or non-extradition to the United
6 States, the amount of unrecovered proceeds lost as a result of
7 the alleged offense, the source of bail funds tendered or
8 sought to be tendered for bail, whether from the totality of
9 the court's consideration, the loss of funds posted or sought
10 to be posted for bail will not deter the defendant from flight,
11 whether the evidence shows that the defendant is engaged in
12 significant possession, manufacture, or delivery of a
13 controlled substance or cannabis, either individually or in
14 consort with others, whether at the time of the offense
15 charged he or she was on bond or pre-trial release pending
16 trial, probation, periodic imprisonment or conditional
17 discharge pursuant to this Code or the comparable Code of any
18 other state or federal jurisdiction, whether the defendant is
19 on bond or pre-trial release pending the imposition or
20 execution of sentence or appeal of sentence for any offense
21 under the laws of Illinois or any other state or federal
22 jurisdiction, whether the defendant is under parole, aftercare
23 release, mandatory supervised release, or work release from
24 the Illinois Department of Corrections or Illinois Department
25 of Juvenile Justice or any penal institution or corrections
26 department of any state or federal jurisdiction, the

1 defendant's record of convictions, whether the defendant has
2 been convicted of a misdemeanor or ordinance offense in
3 Illinois or similar offense in other state or federal
4 jurisdiction within the 10 years preceding the current charge
5 or convicted of a felony in Illinois, whether the defendant
6 was convicted of an offense in another state or federal
7 jurisdiction that would be a felony if committed in Illinois
8 within the 20 years preceding the current charge or has been
9 convicted of such felony and released from the penitentiary
10 within 20 years preceding the current charge if a penitentiary
11 sentence was imposed in Illinois or other state or federal
12 jurisdiction, the defendant's records of juvenile adjudication
13 of delinquency in any jurisdiction, any record of appearance
14 or failure to appear by the defendant at court proceedings,
15 whether there was flight to avoid arrest or prosecution,
16 whether the defendant escaped or attempted to escape to avoid
17 arrest, whether the defendant refused to identify himself or
18 herself, or whether there was a refusal by the defendant to be
19 fingerprinted as required by law. Information used by the
20 court in its findings or stated in or offered in connection
21 with this Section may be by way of proffer based upon reliable
22 information offered by the State or defendant. All evidence
23 shall be admissible if it is relevant and reliable regardless
24 of whether it would be admissible under the rules of evidence
25 applicable at criminal trials. If the State presents evidence
26 that the offense committed by the defendant was related to or

1 in furtherance of the criminal activities of an organized gang
2 or was motivated by the defendant's membership in or
3 allegiance to an organized gang, and if the court determines
4 that the evidence may be substantiated, the court shall
5 prohibit the defendant from associating with other members of
6 the organized gang as a condition of bail or release. For the
7 purposes of this Section, "organized gang" has the meaning
8 ascribed to it in Section 10 of the Illinois Streetgang
9 Terrorism Omnibus Prevention Act.

10 (a-5) There shall be a presumption that any conditions of
11 release imposed shall be non-monetary in nature and the court
12 shall impose the least restrictive conditions or combination
13 of conditions necessary to reasonably assure the appearance of
14 the defendant for further court proceedings and protect the
15 integrity of the judicial proceedings from a specific threat
16 to a witness or participant. Conditions of release may
17 include, but not be limited to, electronic home monitoring,
18 curfews, drug counseling, stay-away orders, and in-person
19 reporting. The court shall consider the defendant's
20 socio-economic circumstance when setting conditions of release
21 or imposing monetary bail.

22 (b) The amount of bail shall be:

23 (1) Sufficient to assure compliance with the
24 conditions set forth in the bail bond, which shall include
25 the defendant's current address with a written
26 admonishment to the defendant that he or she must comply

1 with the provisions of Section 110-12 regarding any change
2 in his or her address. The defendant's address shall at
3 all times remain a matter of public record with the clerk
4 of the court.

5 (2) Not oppressive.

6 (3) Considerate of the financial ability of the
7 accused.

8 (4) When a person is charged with a drug related
9 offense involving possession or delivery of cannabis or
10 possession or delivery of a controlled substance as
11 defined in the Cannabis Control Act, the Illinois
12 Controlled Substances Act, or the Methamphetamine Control
13 and Community Protection Act, the full street value of the
14 drugs seized shall be considered. "Street value" shall be
15 determined by the court on the basis of a proffer by the
16 State based upon reliable information of a law enforcement
17 official contained in a written report as to the amount
18 seized and such proffer may be used by the court as to the
19 current street value of the smallest unit of the drug
20 seized.

21 (b-5) Upon the filing of a written request demonstrating
22 reasonable cause, the State's Attorney may request a source of
23 bail hearing either before or after the posting of any funds.
24 If the hearing is granted, before the posting of any bail, the
25 accused must file a written notice requesting that the court
26 conduct a source of bail hearing. The notice must be

1 accompanied by justifying affidavits stating the legitimate
2 and lawful source of funds for bail. At the hearing, the court
3 shall inquire into any matters stated in any justifying
4 affidavits, and may also inquire into matters appropriate to
5 the determination which shall include, but are not limited to,
6 the following:

7 (1) the background, character, reputation, and
8 relationship to the accused of any surety; and

9 (2) the source of any money or property deposited by
10 any surety, and whether any such money or property
11 constitutes the fruits of criminal or unlawful conduct;
12 and

13 (3) the source of any money posted as cash bail, and
14 whether any such money constitutes the fruits of criminal
15 or unlawful conduct; and

16 (4) the background, character, reputation, and
17 relationship to the accused of the person posting cash
18 bail.

19 Upon setting the hearing, the court shall examine, under
20 oath, any persons who may possess material information.

21 The State's Attorney has a right to attend the hearing, to
22 call witnesses and to examine any witness in the proceeding.
23 The court shall, upon request of the State's Attorney,
24 continue the proceedings for a reasonable period to allow the
25 State's Attorney to investigate the matter raised in any
26 testimony or affidavit. If the hearing is granted after the

1 accused has posted bail, the court shall conduct a hearing
2 consistent with this subsection (b-5). At the conclusion of
3 the hearing, the court must issue an order either approving or
4 disapproving the bail.

5 (c) When a person is charged with an offense punishable by
6 fine only the amount of the bail shall not exceed double the
7 amount of the maximum penalty.

8 (d) When a person has been convicted of an offense and only
9 a fine has been imposed the amount of the bail shall not exceed
10 double the amount of the fine.

11 (e) The State may appeal any order granting bail or
12 setting a given amount for bail.

13 (f) When a person is charged with a violation of an order
14 of protection under Section 12-3.4 or 12-30 of the Criminal
15 Code of 1961 or the Criminal Code of 2012 or when a person is
16 charged with domestic battery, aggravated domestic battery,
17 kidnapping, aggravated kidnaping, unlawful restraint,
18 aggravated unlawful restraint, stalking, aggravated stalking,
19 cyberstalking, harassment by telephone, harassment through
20 electronic communications, or an attempt to commit first
21 degree murder committed against an intimate partner regardless
22 whether an order of protection has been issued against the
23 person,

24 (1) whether the alleged incident involved harassment
25 or abuse, as defined in the Illinois Domestic Violence Act
26 of 1986;

1 (2) whether the person has a history of domestic
2 violence, as defined in the Illinois Domestic Violence
3 Act, or a history of other criminal acts;

4 (3) based on the mental health of the person;

5 (4) whether the person has a history of violating the
6 orders of any court or governmental entity;

7 (5) whether the person has been, or is, potentially a
8 threat to any other person;

9 (6) whether the person has access to deadly weapons or
10 a history of using deadly weapons;

11 (7) whether the person has a history of abusing
12 alcohol or any controlled substance;

13 (8) based on the severity of the alleged incident that
14 is the basis of the alleged offense, including, but not
15 limited to, the duration of the current incident, and
16 whether the alleged incident involved the use of a weapon,
17 physical injury, sexual assault, strangulation, abuse
18 during the alleged victim's pregnancy, abuse of pets, or
19 forcible entry to gain access to the alleged victim;

20 (9) whether a separation of the person from the
21 alleged victim or a termination of the relationship
22 between the person and the alleged victim has recently
23 occurred or is pending;

24 (10) whether the person has exhibited obsessive or
25 controlling behaviors toward the alleged victim,
26 including, but not limited to, stalking, surveillance, or

1 isolation of the alleged victim or victim's family member
2 or members;

3 (11) whether the person has expressed suicidal or
4 homicidal ideations;

5 (12) based on any information contained in the
6 complaint and any police reports, affidavits, or other
7 documents accompanying the complaint,

8 the court may, in its discretion, order the respondent to
9 undergo a risk assessment evaluation using a recognized,
10 evidence-based instrument conducted by an Illinois Department
11 of Human Services approved partner abuse intervention program
12 provider, pretrial service, probation, or parole agency. These
13 agencies shall have access to summaries of the defendant's
14 criminal history, which shall not include victim interviews or
15 information, for the risk evaluation. Based on the information
16 collected from the 12 points to be considered at a bail hearing
17 under this subsection (f), the results of any risk evaluation
18 conducted and the other circumstances of the violation, the
19 court may order that the person, as a condition of bail, be
20 placed under electronic surveillance as provided in Section
21 5-8A-7 of the Unified Code of Corrections. Upon making a
22 determination whether or not to order the respondent to
23 undergo a risk assessment evaluation or to be placed under
24 electronic surveillance and risk assessment, the court shall
25 document in the record the court's reasons for making those
26 determinations. The cost of the electronic surveillance and

1 risk assessment shall be paid by, or on behalf, of the
2 defendant. As used in this subsection (f), "intimate partner"
3 means a spouse or a current or former partner in a cohabitation
4 or dating relationship.

5 (Source: P.A. 102-28, eff. 6-25-21; 102-558, eff. 8-20-21;
6 102-813, eff. 5-13-22.)

7 (Text of Section after amendment by P.A. 101-652)

8 Sec. 110-5. Determining the amount of bail and conditions
9 of release.

10 (a) In determining which conditions of pretrial release,
11 if any, will reasonably assure the appearance in court of a
12 defendant as required or the safety of any other person or the
13 community, or that the defendant will not obstruct or attempt
14 to obstruct the criminal justice process, and the likelihood
15 of compliance by the defendant with all the conditions of
16 pretrial release, the court shall, on the basis of available
17 information, take into account such matters as:

18 (1) the nature and circumstances of the offense
19 charged;

20 (2) the weight of the evidence against the eligible
21 defendant, ~~except that the court may consider the~~
22 ~~admissibility of any evidence sought to be excluded;~~

23 (3) the history and characteristics of the eligible
24 defendant, including:

25 (A) the eligible defendant's character, physical

1 and mental condition, family ties, employment,
2 financial resources, length of residence in the
3 community, community ties, past relating to drug or
4 alcohol abuse, conduct, history criminal history, and
5 record concerning appearance at court proceedings; and

6 (B) whether, at the time of the current offense or
7 arrest, the eligible defendant was on probation,
8 parole, or on other release pending trial, sentencing,
9 appeal, or completion of sentence for an offense under
10 federal law, or the law of this or any other state;

11 (4) the nature and seriousness of the specific, real
12 and present threat to any person or the community that
13 would be posed by the eligible defendant's release, if
14 applicable, as required under paragraph (7.5) of Section 4
15 of the Rights of Crime Victims and Witnesses Act; and

16 (5) the nature and seriousness of the risk of
17 obstructing or attempting to obstruct the criminal justice
18 process that would be posed by the eligible defendant's
19 release, if applicable.

20 (b) The court shall impose any conditions that are
21 mandatory under Section 110-10. The court may impose any
22 conditions that are permissible under Section 110-10.

23 (b-5) When a person is charged with a violation of an order
24 of protection under Section 12-3.4 or 12-30 of the Criminal
25 Code of 1961 or the Criminal Code of 2012 or when a person is
26 charged with domestic battery, aggravated domestic battery,

1 kidnapping, aggravated kidnaping, unlawful restraint,
2 aggravated unlawful restraint, stalking, aggravated stalking,
3 cyberstalking, harassment by telephone, harassment through
4 electronic communications, or an attempt to commit first
5 degree murder committed against an intimate partner regardless
6 whether an order of protection has been issued against the
7 person,

8 (1) whether the alleged incident involved harassment
9 or abuse, as defined in the Illinois Domestic Violence Act
10 of 1986;

11 (2) whether the person has a history of domestic
12 violence, as defined in the Illinois Domestic Violence
13 Act, or a history of other criminal acts;

14 (3) based on the mental health of the person;

15 (4) whether the person has a history of violating the
16 orders of any court or governmental entity;

17 (5) whether the person has been, or is, potentially a
18 threat to any other person;

19 (6) whether the person has access to deadly weapons or
20 a history of using deadly weapons;

21 (7) whether the person has a history of abusing
22 alcohol or any controlled substance;

23 (8) based on the severity of the alleged incident that
24 is the basis of the alleged offense, including, but not
25 limited to, the duration of the current incident, and
26 whether the alleged incident involved the use of a weapon,

1 physical injury, sexual assault, strangulation, abuse
2 during the alleged victim's pregnancy, abuse of pets, or
3 forcible entry to gain access to the alleged victim;

4 (9) whether a separation of the person from the victim
5 of abuse or a termination of the relationship between the
6 person and the victim of abuse has recently occurred or is
7 pending;

8 (10) whether the person has exhibited obsessive or
9 controlling behaviors toward the victim of abuse,
10 including, but not limited to, stalking, surveillance, or
11 isolation of the victim of abuse or victim's family member
12 or members;

13 (11) whether the person has expressed suicidal or
14 homicidal ideations;

15 (11.5) any other factors deemed by the court to have a
16 reasonable bearing upon the defendant's propensity or
17 reputation for violent, abusive or assaultive behavior, or
18 lack of that behavior.

19 (c) In cases of stalking or aggravated stalking under
20 Section 12-7.3 or 12-7.4 of the Criminal Code of 2012, the
21 court may consider the following additional factors:

22 (1) Any evidence of the defendant's prior criminal
23 history indicative of violent, abusive or assaultive
24 behavior, or lack of that behavior. The evidence may
25 include testimony or documents received in juvenile
26 proceedings, criminal, quasi-criminal, civil commitment,

1 domestic relations or other proceedings;

2 (2) Any evidence of the defendant's psychological,
3 psychiatric or other similar social history that tends to
4 indicate a violent, abusive, or assaultive nature, or lack
5 of any such history;

6 (3) The nature of the threat which is the basis of the
7 charge against the defendant;

8 (4) Any statements made by, or attributed to the
9 defendant, together with the circumstances surrounding
10 them;

11 (5) The age and physical condition of any person
12 allegedly assaulted by the defendant;

13 (6) Whether the defendant is known to possess or have
14 access to any weapon or weapons;

15 (7) Any other factors deemed by the court to have a
16 reasonable bearing upon the defendant's propensity or
17 reputation for violent, abusive or assaultive behavior, or
18 lack of that behavior.

19 (d) The Court may use a regularly validated risk
20 assessment tool to aid its determination of appropriate
21 conditions of release as provided for in Section 110-6.4. Risk
22 assessment tools may not be used as the sole basis to deny
23 pretrial release. If a risk assessment tool is used, the
24 defendant's counsel shall be provided with the information and
25 scoring system of the risk assessment tool used to arrive at
26 the determination. The defendant retains the right to

1 challenge the validity of a risk assessment tool used by the
2 court and to present evidence relevant to the defendant's
3 challenge.

4 (e) If a person remains in pretrial detention after his or
5 her pretrial conditions hearing after having been ordered
6 released with pretrial conditions, the court shall hold a
7 hearing to determine the reason for continued detention. If
8 the reason for continued detention is due to the
9 unavailability or the defendant's ineligibility for one or
10 more pretrial conditions previously ordered by the court or
11 directed by a pretrial services agency, the court shall reopen
12 the conditions of release hearing to determine what available
13 pretrial conditions exist that will reasonably assure the
14 appearance of a defendant as required or the safety of any
15 other person and the likelihood of compliance by the defendant
16 with all the conditions of pretrial release. The inability of
17 the defendant to pay for a condition of release or any other
18 ineligibility for a condition of pretrial release shall not be
19 used as a justification for the pretrial detention of that
20 defendant.

21 (f) Prior to the defendant's first appearance, the Court
22 shall appoint the public defender or a licensed attorney at
23 law of this State to represent the defendant for purposes of
24 that hearing, unless the defendant has obtained licensed
25 counsel for themselves.

26 (g) Electronic monitoring, GPS monitoring, or home

1 confinement can ~~only~~ be imposed as a condition of pretrial
2 release if a no less restrictive condition of release or
3 combination of less restrictive condition of release would
4 reasonably ensure the appearance of the defendant for later
5 hearings or protect an identifiable person or persons from
6 ~~imminent~~ threat of serious physical harm.

7 (h) If the court imposes electronic monitoring, GPS
8 monitoring, or home confinement, the court shall set forth in
9 the record the basis for its finding. A defendant shall be
10 given custodial credit for each day he or she was subjected to
11 home confinement ~~that program~~, at the same rate described in
12 subsection (b) of Section 5-4.5-100 of the Unified Code of
13 Corrections.

14 (i) (Blank). ~~If electronic monitoring, GPS monitoring, or~~
15 ~~home confinement is imposed, the court shall determine every~~
16 ~~60 days if no less restrictive condition of release or~~
17 ~~combination of less restrictive conditions of release would~~
18 ~~reasonably ensure the appearance, or continued appearance, of~~
19 ~~the defendant for later hearings or protect an identifiable~~
20 ~~person or persons from imminent threat of serious physical~~
21 ~~harm. If the court finds that there are less restrictive~~
22 ~~conditions of release, the court shall order that the~~
23 ~~condition be removed. This subsection takes effect January 1,~~
24 ~~2022.~~

25 (j) Crime Victims shall be given notice by the State's
26 Attorney's office of this hearing as required in paragraph (1)

1 of subsection (b) of Section 4.5 of the Rights of Crime Victims
2 and Witnesses Act and shall be informed of their opportunity
3 at this hearing to obtain an order of protection under Article
4 112A of this Code.

5 (Source: P.A. 101-652, eff. 1-1-23; 102-28, eff. 6-25-21;
6 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

7 (725 ILCS 5/110-6) (from Ch. 38, par. 110-6)

8 (Text of Section before amendment by P.A. 101-652)

9 Sec. 110-6. Modification of bail or conditions.

10 (a) Upon verified application by the State or the
11 defendant or on its own motion the court before which the
12 proceeding is pending may increase or reduce the amount of
13 bail or may alter the conditions of the bail bond or grant bail
14 where it has been previously revoked or denied. If bail has
15 been previously revoked pursuant to subsection (f) of this
16 Section or if bail has been denied to the defendant pursuant to
17 subsection (e) of Section 110-6.1 or subsection (e) of Section
18 110-6.3, the defendant shall be required to present a verified
19 application setting forth in detail any new facts not known or
20 obtainable at the time of the previous revocation or denial of
21 bail proceedings. If the court grants bail where it has been
22 previously revoked or denied, the court shall state on the
23 record of the proceedings the findings of facts and conclusion
24 of law upon which such order is based.

25 (a-5) In addition to any other available motion or

1 procedure under this Code, a person in custody solely for a
2 Category B offense due to an inability to post monetary bail
3 shall be brought before the court at the next available court
4 date or 7 calendar days from the date bail was set, whichever
5 is earlier, for a rehearing on the amount or conditions of bail
6 or release pending further court proceedings. The court may
7 reconsider conditions of release for any other person whose
8 inability to post monetary bail is the sole reason for
9 continued incarceration, including a person in custody for a
10 Category A offense or a Category A offense and a Category B
11 offense. The court may deny the rehearing permitted under this
12 subsection (a-5) if the person has failed to appear as
13 required before the court and is incarcerated based on a
14 warrant for failure to appear on the same original criminal
15 offense.

16 (b) Violation of the conditions of Section 110-10 of this
17 Code or any special conditions of bail as ordered by the court
18 shall constitute grounds for the court to increase the amount
19 of bail, or otherwise alter the conditions of bail, or, where
20 the alleged offense committed on bail is a forcible felony in
21 Illinois or a Class 2 or greater offense under the Illinois
22 Controlled Substances Act, the Cannabis Control Act, or the
23 Methamphetamine Control and Community Protection Act, revoke
24 bail pursuant to the appropriate provisions of subsection (e)
25 of this Section.

26 (c) Reasonable notice of such application by the defendant

1 shall be given to the State.

2 (d) Reasonable notice of such application by the State
3 shall be given to the defendant, except as provided in
4 subsection (e).

5 (e) Upon verified application by the State stating facts
6 or circumstances constituting a violation or a threatened
7 violation of any of the conditions of the bail bond the court
8 may issue a warrant commanding any peace officer to bring the
9 defendant without unnecessary delay before the court for a
10 hearing on the matters set forth in the application. If the
11 actual court before which the proceeding is pending is absent
12 or otherwise unavailable another court may issue a warrant
13 pursuant to this Section. When the defendant is charged with a
14 felony offense and while free on bail is charged with a
15 subsequent felony offense and is the subject of a proceeding
16 set forth in Section 109-1 or 109-3 of this Code, upon the
17 filing of a verified petition by the State alleging a
18 violation of Section 110-10 (a) (4) of this Code, the court
19 shall without prior notice to the defendant, grant leave to
20 file such application and shall order the transfer of the
21 defendant and the application without unnecessary delay to the
22 court before which the previous felony matter is pending for a
23 hearing as provided in subsection (b) or this subsection of
24 this Section. The defendant shall be held without bond pending
25 transfer to and a hearing before such court. At the conclusion
26 of the hearing based on a violation of the conditions of

1 Section 110-10 of this Code or any special conditions of bail
2 as ordered by the court the court may enter an order increasing
3 the amount of bail or alter the conditions of bail as deemed
4 appropriate.

5 (f) Where the alleged violation consists of the violation
6 of one or more felony statutes of any jurisdiction which would
7 be a forcible felony in Illinois or a Class 2 or greater
8 offense under the Illinois Controlled Substances Act, the
9 Cannabis Control Act, or the Methamphetamine Control and
10 Community Protection Act and the defendant is on bail for the
11 alleged commission of a felony, or where the defendant is on
12 bail for a felony domestic battery (enhanced pursuant to
13 subsection (b) of Section 12-3.2 of the Criminal Code of 1961
14 or the Criminal Code of 2012), aggravated domestic battery,
15 aggravated battery, unlawful restraint, aggravated unlawful
16 restraint or domestic battery in violation of item (1) of
17 subsection (a) of Section 12-3.2 of the Criminal Code of 1961
18 or the Criminal Code of 2012 against a family or household
19 member as defined in Section 112A-3 of this Code and the
20 violation is an offense of domestic battery against the same
21 victim the court shall, on the motion of the State or its own
22 motion, revoke bail in accordance with the following
23 provisions:

24 (1) The court shall hold the defendant without bail
25 pending the hearing on the alleged breach; however, if the
26 defendant is not admitted to bail the hearing shall be

1 commenced within 10 days from the date the defendant is
2 taken into custody or the defendant may not be held any
3 longer without bail, unless delay is occasioned by the
4 defendant. Where defendant occasions the delay, the
5 running of the 10 day period is temporarily suspended and
6 resumes at the termination of the period of delay. Where
7 defendant occasions the delay with 5 or fewer days
8 remaining in the 10 day period, the court may grant a
9 period of up to 5 additional days to the State for good
10 cause shown. The State, however, shall retain the right to
11 proceed to hearing on the alleged violation at any time,
12 upon reasonable notice to the defendant and the court.

13 (2) At a hearing on the alleged violation the State
14 has the burden of going forward and proving the violation
15 by clear and convincing evidence. The evidence shall be
16 presented in open court with the opportunity to testify,
17 to present witnesses in his behalf, and to cross-examine
18 witnesses if any are called by the State, and
19 representation by counsel and if the defendant is indigent
20 to have counsel appointed for him. The rules of evidence
21 applicable in criminal trials in this State shall not
22 govern the admissibility of evidence at such hearing.
23 Information used by the court in its findings or stated in
24 or offered in connection with hearings for increase or
25 revocation of bail may be by way of proffer based upon
26 reliable information offered by the State or defendant.

1 All evidence shall be admissible if it is relevant and
2 reliable regardless of whether it would be admissible
3 under the rules of evidence applicable at criminal trials.
4 A motion by the defendant to suppress evidence or to
5 suppress a confession shall not be entertained at such a
6 hearing. Evidence that proof may have been obtained as a
7 result of an unlawful search and seizure or through
8 improper interrogation is not relevant to this hearing.

9 (3) Upon a finding by the court that the State has
10 established by clear and convincing evidence that the
11 defendant has committed a forcible felony or a Class 2 or
12 greater offense under the Illinois Controlled Substances
13 Act, the Cannabis Control Act, or the Methamphetamine
14 Control and Community Protection Act while admitted to
15 bail, or where the defendant is on bail for a felony
16 domestic battery (enhanced pursuant to subsection (b) of
17 Section 12-3.2 of the Criminal Code of 1961 or the
18 Criminal Code of 2012), aggravated domestic battery,
19 aggravated battery, unlawful restraint, aggravated
20 unlawful restraint or domestic battery in violation of
21 item (1) of subsection (a) of Section 12-3.2 of the
22 Criminal Code of 1961 or the Criminal Code of 2012 against
23 a family or household member as defined in Section 112A-3
24 of this Code and the violation is an offense of domestic
25 battery, against the same victim, the court shall revoke
26 the bail of the defendant and hold the defendant for trial

1 without bail. Neither the finding of the court nor any
2 transcript or other record of the hearing shall be
3 admissible in the State's case in chief, but shall be
4 admissible for impeachment, or as provided in Section
5 115-10.1 of this Code or in a perjury proceeding.

6 (4) If the bail of any defendant is revoked pursuant
7 to paragraph (f) (3) of this Section, the defendant may
8 demand and shall be entitled to be brought to trial on the
9 offense with respect to which he was formerly released on
10 bail within 90 days after the date on which his bail was
11 revoked. If the defendant is not brought to trial within
12 the 90 day period required by the preceding sentence, he
13 shall not be held longer without bail. In computing the 90
14 day period, the court shall omit any period of delay
15 resulting from a continuance granted at the request of the
16 defendant.

17 (5) If the defendant either is arrested on a warrant
18 issued pursuant to this Code or is arrested for an
19 unrelated offense and it is subsequently discovered that
20 the defendant is a subject of another warrant or warrants
21 issued pursuant to this Code, the defendant shall be
22 transferred promptly to the court which issued such
23 warrant. If, however, the defendant appears initially
24 before a court other than the court which issued such
25 warrant, the non-issuing court shall not alter the amount
26 of bail set on such warrant unless the court sets forth on

1 the record of proceedings the conclusions of law and facts
2 which are the basis for such altering of another court's
3 bond. The non-issuing court shall not alter another courts
4 bail set on a warrant unless the interests of justice and
5 public safety are served by such action.

6 (g) The State may appeal any order where the court has
7 increased or reduced the amount of bail or altered the
8 conditions of the bail bond or granted bail where it has
9 previously been revoked.

10 (Source: P.A. 100-1, eff. 1-1-18; 100-929, eff. 1-1-19.)

11 (Text of Section after amendment by P.A. 101-652)

12 Sec. 110-6. Revocation of pretrial release, modification
13 of conditions of pretrial release, and sanctions for
14 violations of conditions of pretrial release.

15 (a) When a defendant is granted pretrial release under
16 this Section ~~section~~, that pretrial release may be revoked
17 only under the following conditions:

18 (1) if the defendant is charged with a detainable
19 felony as defined in Section 110-6.1, a defendant may be
20 detained after the State files a verified petition for
21 such a hearing, and gives the defendant notice as
22 prescribed in Section 110-6.1; or

23 (2) in accordance with subsection (b) of this Section
24 ~~section~~.

25 (b) Revocation due to a new criminal charge. ~~+~~ If an

1 individual, while on pretrial release for a felony ~~Felony~~ or
2 Class A misdemeanor under this Section, is charged with a new
3 felony or Class A misdemeanor under the Criminal Code of 2012,
4 the court may, on its own motion or motion of the State ~~state~~,
5 begin proceedings to revoke the individual's ~~individual's'~~
6 pretrial release.

7 (1) When the defendant is charged with a felony or
8 Class ~~class~~ A misdemeanor offense and while free on
9 pretrial release bail is charged with a subsequent felony
10 or Class ~~class~~ A misdemeanor offense that is alleged to
11 have occurred during the defendant's pretrial release, the
12 State ~~state~~ may file a verified petition for revocation of
13 pretrial release.

14 (2) When a defendant on pretrial release is charged
15 with a violation of an order of protection issued under
16 Section 112A-14 of this Code, or Section 214 of the
17 Illinois Domestic Violence Act of 1986 or previously was
18 convicted of a violation of an order of protection under
19 Section 12-3.4 or 12-30 of the Criminal Code of 1961 or the
20 Criminal Code of 2012, and the subject of the order of
21 protection is the same person as the victim in the
22 underlying matter, the State ~~state~~ shall file a verified
23 petition for revocation of pretrial release.

24 (3) Upon the filing of this petition, the court shall
25 order the transfer of the defendant and the application to
26 the court before which the previous felony matter is

1 pending. The defendant shall be held without bond pending
2 transfer to and a hearing before such court. The defendant
3 shall be transferred to the court before which the
4 previous matter is pending without unnecessary delay. In
5 no event shall the time between the filing of the State's
6 ~~state's~~ petition for revocation and the defendant's
7 appearance before the court before which the previous
8 matter is pending exceed 72 hours.

9 (4) The court before which the previous felony matter
10 is pending may revoke the defendant's pretrial release
11 only if it finds, after considering all relevant
12 circumstances including, but not limited to, the nature
13 and seriousness of the violation or criminal act alleged,
14 by the court finds clear and convincing evidence that no
15 condition or combination of conditions of release would
16 reasonably assure the appearance of the defendant for
17 later hearings or prevent the defendant from being charged
18 with a subsequent felony or Class ~~class~~ A misdemeanor.

19 (5) In lieu of revocation, the court may release the
20 defendant pre-trial, with or without modification of
21 conditions of pretrial release.

22 (6) If the case that caused the revocation is
23 dismissed, the defendant is found not guilty in the case
24 causing the revocation, or the defendant completes a
25 lawfully imposed sentence on the case causing the
26 revocation, the court shall, without unnecessary delay,

1 hold a hearing on conditions of release pursuant to
2 Section ~~section~~ 110-5 and release the defendant with or
3 without modification of conditions of pretrial release.

4 (7) Both the State ~~state~~ and the defense may appeal an
5 order revoking pretrial release or denying a petition for
6 revocation of release.

7 (c) Violations other than re-arrest for a felony or Class
8 ~~class~~ A misdemeanor. If a defendant:

9 (1) fails to appear in court as required by the
10 defendant's ~~their~~ conditions of release;

11 (2) is charged with a Class ~~class~~ B or C misdemeanor,
12 petty offense, traffic offense, or ordinance violation
13 that is alleged to have occurred during the defendant's
14 pretrial release; or

15 (3) violates any other condition of release set by the
16 court,

17 the court shall follow the procedures set forth in Section
18 110-3 to ensure the defendant's appearance in court to address
19 the violation.

20 (d) When a defendant appears in court for a notice to show
21 cause hearing, or after being arrested on a warrant issued
22 because of a failure to appear in court or at a notice to show
23 cause hearing, or after being arrested for an offense other
24 than a felony or Class ~~class~~ A misdemeanor, the State ~~state~~ may
25 file a verified petition requesting a hearing for sanctions.

26 (e) During the hearing for sanctions, the defendant shall

1 be represented by counsel and have an opportunity to be heard
2 regarding the violation and evidence in mitigation. The court
3 shall only impose sanctions if it finds by clear and
4 convincing evidence that:

5 1. The defendant committed an act that violated a term
6 of the defendant's ~~their~~ pretrial release;

7 2. The defendant had actual knowledge that the
8 defendant's ~~their~~ action would violate a court order;

9 3. The violation of the court order was willful; and

10 4. The violation was not caused by a lack of access to
11 financial monetary resources.

12 (f) Sanctions. ~~Sanctions:—sanctions~~ for violations of
13 pretrial release may include:

14 1. A verbal or written admonishment from the court;

15 2. Imprisonment in the county jail for a period not
16 exceeding 30 days;

17 3. A fine of not more than \$200; or

18 4. A modification of the defendant's pretrial
19 conditions.

20 (g) Modification of pretrial conditions. ~~Pretrial~~
21 ~~Conditions~~

22 (a) The court may, at any time, after motion by either
23 party or on its own motion, remove previously set
24 conditions of pretrial release, subject to the provisions
25 in subsection ~~section~~ (e). The court may only add or
26 increase conditions of pretrial release at a hearing under

1 this Section, in a warrant issued under Section 110-3, or
2 upon motion from the State ~~state~~.

3 (b) Modification of conditions of release regarding
4 contact with victims or witnesses. The court shall not
5 remove a previously set condition of bond regulating
6 contact with a victim or witness in the case, unless the
7 subject of the condition has been given notice of the
8 hearing as required in paragraph (1) of subsection (b) of
9 Section 4.5 of the Rights of Crime Victims and Witnesses
10 Act. If the subject of the condition of release is not
11 present, the court shall follow the procedures of
12 paragraph (10) of subsection (c-5) ~~(c-1)~~ of Section 4.5 of
13 the Rights of Crime Victims and Witnesses Act.

14 (h) Notice to victims. ~~Victims~~: Crime victims ~~Victims~~
15 shall be given notice by the State's Attorney's office of all
16 hearings under ~~in~~ this Section ~~section~~ as required in
17 paragraph (1) of subsection (b) of Section 4.5 of the Rights of
18 Crime Victims and Witnesses Act and shall be informed of their
19 opportunity at these hearing to obtain an order of protection
20 under Article 112A of this Code.

21 (Source: P.A. 100-1, eff. 1-1-18; 100-929, eff. 1-1-19;
22 101-652, eff. 1-1-23; revised 2-28-22.)

23 (725 ILCS 5/110-6.1) (from Ch. 38, par. 110-6.1)

24 (Text of Section before amendment by P.A. 101-652)

25 Sec. 110-6.1. Denial of bail in non-probationable felony

1 offenses.

2 (a) Upon verified petition by the State, the court shall
3 hold a hearing to determine whether bail should be denied to a
4 defendant who is charged with a felony offense for which a
5 sentence of imprisonment, without probation, periodic
6 imprisonment or conditional discharge, is required by law upon
7 conviction, when it is alleged that the defendant's admission
8 to bail poses a real and present threat to the physical safety
9 of any person or persons.

10 (1) A petition may be filed without prior notice to
11 the defendant at the first appearance before a judge, or
12 within the 21 calendar days, except as provided in Section
13 110-6, after arrest and release of the defendant upon
14 reasonable notice to defendant; provided that while such
15 petition is pending before the court, the defendant if
16 previously released shall not be detained.

17 (2) The hearing shall be held immediately upon the
18 defendant's appearance before the court, unless for good
19 cause shown the defendant or the State seeks a
20 continuance. A continuance on motion of the defendant may
21 not exceed 5 calendar days, and a continuance on the
22 motion of the State may not exceed 3 calendar days. The
23 defendant may be held in custody during such continuance.

24 (b) The court may deny bail to the defendant where, after
25 the hearing, it is determined that:

26 (1) the proof is evident or the presumption great that

1 the defendant has committed an offense for which a
2 sentence of imprisonment, without probation, periodic
3 imprisonment or conditional discharge, must be imposed by
4 law as a consequence of conviction, and

5 (2) the defendant poses a real and present threat to
6 the physical safety of any person or persons, by conduct
7 which may include, but is not limited to, a forcible
8 felony, the obstruction of justice, intimidation, injury,
9 physical harm, an offense under the Illinois Controlled
10 Substances Act which is a Class X felony, or an offense
11 under the Methamphetamine Control and Community Protection
12 Act which is a Class X felony, and

13 (3) the court finds that no condition or combination
14 of conditions set forth in subsection (b) of Section
15 110-10 of this Article, can reasonably assure the physical
16 safety of any other person or persons.

17 (c) Conduct of the hearings.

18 (1) The hearing on the defendant's culpability and
19 dangerousness shall be conducted in accordance with the
20 following provisions:

21 (A) Information used by the court in its findings
22 or stated in or offered at such hearing may be by way
23 of proffer based upon reliable information offered by
24 the State or by defendant. Defendant has the right to
25 be represented by counsel, and if he is indigent, to
26 have counsel appointed for him. Defendant shall have

1 the opportunity to testify, to present witnesses in
2 his own behalf, and to cross-examine witnesses if any
3 are called by the State. The defendant has the right to
4 present witnesses in his favor. When the ends of
5 justice so require, the court may exercises its
6 discretion and compel the appearance of a complaining
7 witness. The court shall state on the record reasons
8 for granting a defense request to compel the presence
9 of a complaining witness. Cross-examination of a
10 complaining witness at the pretrial detention hearing
11 for the purpose of impeaching the witness' credibility
12 is insufficient reason to compel the presence of the
13 witness. In deciding whether to compel the appearance
14 of a complaining witness, the court shall be
15 considerate of the emotional and physical well-being
16 of the witness. The pre-trial detention hearing is not
17 to be used for purposes of discovery, and the post
18 arraignment rules of discovery do not apply. The State
19 shall tender to the defendant, prior to the hearing,
20 copies of defendant's criminal history, if any, if
21 available, and any written or recorded statements and
22 the substance of any oral statements made by any
23 person, if relied upon by the State in its petition.
24 The rules concerning the admissibility of evidence in
25 criminal trials do not apply to the presentation and
26 consideration of information at the hearing. At the

1 trial concerning the offense for which the hearing was
2 conducted neither the finding of the court nor any
3 transcript or other record of the hearing shall be
4 admissible in the State's case in chief, but shall be
5 admissible for impeachment, or as provided in Section
6 115-10.1 of this Code, or in a perjury proceeding.

7 (B) A motion by the defendant to suppress evidence
8 or to suppress a confession shall not be entertained.
9 Evidence that proof may have been obtained as the
10 result of an unlawful search and seizure or through
11 improper interrogation is not relevant to this state
12 of the prosecution.

13 (2) The facts relied upon by the court to support a
14 finding that the defendant poses a real and present threat
15 to the physical safety of any person or persons shall be
16 supported by clear and convincing evidence presented by
17 the State.

18 (d) Factors to be considered in making a determination of
19 dangerousness. The court may, in determining whether the
20 defendant poses a real and present threat to the physical
21 safety of any person or persons, consider but shall not be
22 limited to evidence or testimony concerning:

23 (1) The nature and circumstances of any offense
24 charged, including whether the offense is a crime of
25 violence, involving a weapon.

26 (2) The history and characteristics of the defendant

1 including:

2 (A) Any evidence of the defendant's prior criminal
3 history indicative of violent, abusive or assaultive
4 behavior, or lack of such behavior. Such evidence may
5 include testimony or documents received in juvenile
6 proceedings, criminal, quasi-criminal, civil
7 commitment, domestic relations or other proceedings.

8 (B) Any evidence of the defendant's psychological,
9 psychiatric or other similar social history which
10 tends to indicate a violent, abusive, or assaultive
11 nature, or lack of any such history.

12 (3) The identity of any person or persons to whose
13 safety the defendant is believed to pose a threat, and the
14 nature of the threat;

15 (4) Any statements made by, or attributed to the
16 defendant, together with the circumstances surrounding
17 them;

18 (5) The age and physical condition of any person
19 assaulted by the defendant;

20 (6) Whether the defendant is known to possess or have
21 access to any weapon or weapons;

22 (7) Whether, at the time of the current offense or any
23 other offense or arrest, the defendant was on probation,
24 parole, aftercare release, mandatory supervised release or
25 other release from custody pending trial, sentencing,
26 appeal or completion of sentence for an offense under

1 federal or state law;

2 (8) Any other factors, including those listed in
3 Section 110-5 of this Article deemed by the court to have a
4 reasonable bearing upon the defendant's propensity or
5 reputation for violent, abusive or assaultive behavior, or
6 lack of such behavior.

7 (e) Detention order. The court shall, in any order for
8 detention:

9 (1) briefly summarize the evidence of the defendant's
10 culpability and its reasons for concluding that the
11 defendant should be held without bail;

12 (2) direct that the defendant be committed to the
13 custody of the sheriff for confinement in the county jail
14 pending trial;

15 (3) direct that the defendant be given a reasonable
16 opportunity for private consultation with counsel, and for
17 communication with others of his choice by visitation,
18 mail and telephone; and

19 (4) direct that the sheriff deliver the defendant as
20 required for appearances in connection with court
21 proceedings.

22 (f) If the court enters an order for the detention of the
23 defendant pursuant to subsection (e) of this Section, the
24 defendant shall be brought to trial on the offense for which he
25 is detained within 90 days after the date on which the order
26 for detention was entered. If the defendant is not brought to

1 trial within the 90 day period required by the preceding
2 sentence, he shall not be held longer without bail. In
3 computing the 90 day period, the court shall omit any period of
4 delay resulting from a continuance granted at the request of
5 the defendant.

6 (g) Rights of the defendant. Any person shall be entitled
7 to appeal any order entered under this Section denying bail to
8 the defendant.

9 (h) The State may appeal any order entered under this
10 Section denying any motion for denial of bail.

11 (i) Nothing in this Section shall be construed as
12 modifying or limiting in any way the defendant's presumption
13 of innocence in further criminal proceedings.

14 (Source: P.A. 98-558, eff. 1-1-14.)

15 (Text of Section after amendment by P.A. 101-652)

16 Sec. 110-6.1. Denial of pretrial release.

17 (a) Upon verified petition by the State, the court shall
18 hold a hearing and may deny a defendant pretrial release only
19 if:

20 (1) the defendant is charged with a forcible felony
21 offense for which a sentence of imprisonment, based on the
22 charge or the defendant's criminal history, without
23 probation, periodic imprisonment or conditional discharge,
24 is required by law upon conviction, ~~and it is alleged that~~
25 ~~the defendant's pretrial release poses a specific, real~~

1 ~~and present threat to any person or the community.;~~

2 (2) the defendant is charged with stalking or
3 aggravated stalking and it is alleged that the defendant's
4 pretrial ~~pre-trial~~ release poses a real and present threat
5 to the ~~physical~~ safety of a victim of the alleged offense,
6 and denial of release is necessary to prevent fulfillment
7 of the threat upon which the charge is based;

8 (3) the victim of abuse was a family or household
9 member as defined by paragraph (6) of Section 103 of the
10 Illinois Domestic Violence Act of 1986, and the person
11 charged, at the time of the alleged offense, was subject
12 to the terms of an order of protection issued under
13 Section 112A-14 of this Code, or Section 214 of the
14 Illinois Domestic Violence Act of 1986 or previously was
15 convicted of a violation of an order of protection under
16 Section 12-3.4 or 12-30 of the Criminal Code of 1961 or the
17 Criminal Code of 2012 or a violent crime if the victim was
18 a family or household member as defined by paragraph (6)
19 of the Illinois Domestic Violence Act of 1986 at the time
20 of the offense or a violation of a substantially similar
21 municipal ordinance or law of this or any other state or
22 the United States if the victim was a family or household
23 member as defined by paragraph (6) of Section 103 of the
24 Illinois Domestic Violence Act of 1986 at the time of the
25 offense, and it is alleged that the defendant's pretrial
26 ~~pre-trial~~ release poses a real and present threat to the

1 physical safety of any person or persons;

2 (4) the defendant is charged with domestic battery or
3 aggravated domestic battery under Section 12-3.2 or 12-3.3
4 of the Criminal Code of 2012 and it is alleged that the
5 defendant's pretrial release poses a real and present
6 threat to the physical safety of any person or persons;

7 (5) the defendant is charged with any offense under
8 Article 11 of the Criminal Code of 2012, except for
9 Sections 11-30, 11-35, 11-40, and 11-45 of the Criminal
10 Code of 2012, or similar provisions of the Criminal Code
11 of 1961 ~~and it is alleged that the defendant's pretrial~~
12 ~~release poses a real and present threat to the physical~~
13 ~~safety of any person or persons;~~

14 (6) the defendant is charged with any of these
15 violations under the Criminal Code of 2012 and it is
16 alleged that the defendant's pretrial releases poses a
17 real and present threat to the physical safety of any
18 ~~specifically identifiable~~ person or the community ~~or~~
19 ~~persons:-~~

20 (A) Section 24-1.2 (aggravated discharge of a
21 firearm);

22 (B) Section 24-2.5 (aggravated discharge of a
23 machine gun or a firearm equipped with a device
24 designed or use for silencing the report of a
25 firearm);

26 (C) Section 24-1.5 (reckless discharge of a

1 firearm);

2 (D) Section 24-1.7 (armed habitual criminal);

3 (E) Section 24-2.2 ~~z~~ (manufacture, sale or
4 transfer of bullets or shells represented to be armor
5 piercing bullets, dragon's breath shotgun shells, bolo
6 shells, l or flechette shells);

7 (F) Section 24-3 (unlawful sale or delivery of
8 firearms);

9 (G) Section 24-3.3 (unlawful sale or delivery of
10 firearms on the premises of any school);

11 (H) Section 24-34 (unlawful sale of firearms by
12 liquor license);

13 (I) Section 24-3.5 ~~(~~unlawful purchase of a
14 firearm);

15 (J) Section 24-3A (gunrunning); ~~or~~

16 (K) Section ~~en~~ 24-3B (firearms trafficking);

17 (L) Section 10-9 (b) (involuntary servitude);

18 (M) Section 10-9 (c) (involuntary sexual servitude
19 of a minor);

20 (N) Section 10-9(d) (trafficking in persons);

21 (O) Non-probationable violations: (i) (unlawful
22 use or possession of weapons by felons or persons in
23 the Custody of the Department of Corrections
24 facilities (Section 24-1.1), (ii) aggravated unlawful
25 use of a weapon (Section 24-1.6l), or (iii) aggravated
26 possession of a stolen firearm (Section 24-3.9);

1 (7) the person has a high likelihood of willful flight
2 to avoid prosecution and is charged with:

3 (A) Any felony described in Sections (a)(1)
4 through (a)(5) of this Section; or

5 (B) A felony offense other than a Class 4 offense;

6 or -

7 (8) the defendant is charged with any other crime for
8 which the court believes there is a serious risk that:

9 (A) the defendant will not appear in court as
10 required;

11 (B) the defendant will pose a danger to any other
12 person or the community; or

13 (C) the defendant will obstruct or attempt to
14 obstruct justice, or threaten, injure, or intimidate,
15 or attempt to threaten, injure, or intimidate a
16 prospective witness or juror.

17 (b) If the charged offense is a felony, the Court shall
18 hold a hearing ~~pursuant to 109-3 of this Code~~ to determine
19 whether there is probable cause to detain the defendant ~~the~~
20 ~~defendant has committed an offense~~, unless a grand jury has
21 returned a true bill of indictment against the defendant. If
22 there is a finding of no probable cause to detain, the
23 defendant shall be released. No such finding is necessary if
24 the defendant is charged with a misdemeanor.

25 (c) Timing of petition.

26 (1) A petition may be filed without prior notice to

1 the defendant at the first appearance before a judge, or
2 within the 21 calendar days, except as provided in Section
3 110-6, after arrest and release of the defendant upon
4 reasonable notice to defendant; provided that while such
5 petition is pending before the court, the defendant if
6 previously released shall not be detained.

7 (2) ~~(2)~~ Upon filing, the court shall immediately hold
8 a hearing on the petition unless a continuance is
9 requested. If a continuance is requested, the hearing
10 shall be held within 48 hours of the defendant's first
11 appearance if the defendant is charged with a Class X,
12 Class 1, Class 2, or Class 3 felony, and within 24 hours if
13 the defendant is charged with a Class 4 or misdemeanor
14 offense. The Court may deny and or grant the request for
15 continuance. If the court decides to grant the
16 continuance, the Court retains the discretion to detain or
17 release the defendant in the time between the filing of
18 the petition and the hearing.

19 (d) Contents of petition.

20 (1) The petition shall be verified by the State and
21 shall state the grounds upon which it contends the
22 defendant should be denied pretrial release, including
23 that no combination of conditions would assure the
24 defendant's appearance in court when required, the
25 protection of the safety of any other person or the
26 community, or that the defendant will obstruct or attempt

1 to obstruct the criminal justice process ~~the identity of~~
2 ~~the specific person or persons the State believes the~~
3 ~~defendant poses a danger to.~~

4 (2) (Blank). ~~Only one petition may be filed under this~~
5 ~~Section.~~

6 (e) Eligibility. The standard of proof of showing that no
7 amount of conditions or combination of conditions will
8 reasonably assure the defendant's appearance in court when
9 required, the protection of the safety of any other person or
10 the community, or that the defendant will not obstruct or
11 attempt to obstruct the criminal justice process shall be by
12 clear and convincing evidence, except that when a motion for
13 pretrial detention is filed pursuant this Section, if the
14 court finds probable cause that the defendant committed any
15 crime for which the defendant may be sentenced to life
16 imprisonment, there shall be a rebuttable presumption that the
17 defendant shall be detained pending trial because no
18 conditions or combination of conditions would reasonably
19 assure the defendant's appearance in court when required, the
20 protection of the safety of any other person or the community,
21 and that the eligible defendant will not obstruct or attempt
22 to obstruct the criminal justice process. A court shall hold a
23 hearing to determine whether any amount of conditions or
24 combination of conditions will reasonably assure the
25 defendant's appearance in court when required, the protection
26 of the safety of any other person or the community, and that

1 the defendant will not obstruct or attempt to obstruct the
2 criminal justice process.

3 (e-5) In pretrial detention proceedings for which there is
4 no indictment, the prosecutor shall establish probable cause
5 to detain the defendant pending further proceedings. A
6 presumption of pretrial detention as provided in subsection
7 (e) of this Section may be rebutted by proof provided by the
8 defendant, the prosecutor, or from other materials submitted
9 to the court. The standard of proof for a rebuttal of the
10 presumption of pretrial detention shall be a preponderance of
11 the evidence. If proof cannot be established to rebut the
12 presumption, the court may order the defendant's pretrial
13 detention. If the presumption is rebutted by sufficient proof,
14 the prosecutor shall have the opportunity to establish that
15 the grounds for pretrial detention exist pursuant to this
16 Section. ~~All defendants shall be presumed eligible for~~
17 ~~pretrial release, and the State shall bear the burden of~~
18 ~~proving by clear and convincing evidence that:~~

19 ~~(1) the proof is evident or the presumption great that~~
20 ~~the defendant has committed an offense listed in~~
21 ~~paragraphs (1) through (6) of subsection (a), and~~

22 ~~(2) the defendant poses a real and present threat to~~
23 ~~the safety of a specific, identifiable person or persons,~~
24 ~~by conduct which may include, but is not limited to, a~~
25 ~~forcible felony, the obstruction of justice, intimidation,~~
26 ~~injury, or abuse as defined by paragraph (1) of Section~~

1 ~~103 of the Illinois Domestic Violence Act of 1986, and~~

2 ~~(3) no condition or combination of conditions set~~
3 ~~forth in subsection (b) of Section 110-10 of this Article~~
4 ~~can mitigate the real and present threat to the safety of~~
5 ~~any person or persons or the defendant's willful flight.~~

6 (f) Conduct of the hearings.

7 (1) Prior to the hearing the State shall tender to the
8 defendant copies of the defendant's criminal history
9 available, any written or recorded statements, ~~and~~ the
10 substance of any oral statements made by any person in the
11 State's Attorney's possession at the time of the hearing,
12 ~~if relied upon by the State in its petition,~~ and any police
13 reports in the State's Attorney's possession at the time
14 of the hearing that are required to be disclosed to the
15 defense under Illinois Supreme Court rules.

16 (2) The State or defendant may present evidence at the
17 hearing by way of proffer based upon reliable information.

18 (3) The defendant has the right to be represented by
19 counsel, and if he or she is indigent, to have counsel
20 appointed for him or her. The defendant shall have the
21 opportunity to testify, to present witnesses on his or her
22 own behalf, and to cross-examine any witnesses that are
23 called by the State.

24 (4) If the defense seeks to call the complaining
25 witness as a witness in its favor, it shall petition the
26 court for permission. When the ends of justice so require,

1 the court may exercise its discretion and compel the
2 appearance of a complaining witness only on the issue of
3 the defendant's pretrial detention. The court shall state
4 on the record reasons for granting a defense request to
5 compel the presence of a complaining witness. In making a
6 determination under this Section ~~section~~, the court shall
7 state on the record the reason for granting a defense
8 request to compel the presence of a complaining witness,
9 and only grant the request if the court finds by clear and
10 convincing evidence that the defendant will be materially
11 prejudiced if the complaining witness does not appear.
12 Cross-examination of a complaining witness at the pretrial
13 detention hearing for the purpose of impeaching the
14 witness' credibility is insufficient reason to compel the
15 presence of the witness. In deciding whether to compel the
16 appearance of a complaining witness, the court shall be
17 considerate of the emotional and physical well-being of
18 the witness. The pretrial ~~pre-trial~~ detention hearing is
19 not to be used for purposes of discovery, and the post
20 arraignment rules of discovery do not apply. The State
21 shall tender to the defendant, prior to the hearing,
22 copies, if any, of the defendant's criminal history, if
23 available, and any written or recorded statements and the
24 substance of any oral statements made by any person, if in
25 the State's Attorney's possession at the time of the
26 hearing.

1 (5) The rules concerning the admissibility of evidence
2 in criminal trials do not apply to the presentation and
3 consideration of information at the hearing. At the trial
4 concerning the offense for which the hearing was conducted
5 neither the finding of the court nor any transcript or
6 other record of the hearing shall be admissible in the
7 State's case-in-chief ~~ease in chief~~, but shall be
8 admissible for impeachment, or as provided in Section
9 115-10.1 of this Code, or in a perjury proceeding.

10 (6) (Blank). ~~The defendant may not move to suppress~~
11 ~~evidence or a confession, however, evidence that proof of~~
12 ~~the charged crime may have been the result of an unlawful~~
13 ~~search or seizure, or both, or through improper~~
14 ~~interrogation, is relevant in assessing the weight of the~~
15 ~~evidence against the defendant.~~

16 (7) Decisions regarding release, conditions of release
17 and detention prior to trial should be individualized, and
18 no single factor or standard should be used exclusively to
19 make a condition or detention decision.

20 (g) Factors to be considered in making a determination of
21 dangerousness. The court may, in determining whether the
22 defendant poses a specific, imminent threat of serious
23 physical harm to a ~~an identifiable~~ person or persons or the
24 community, consider, l but shall not be limited to, l evidence or
25 testimony concerning:

26 (1) The nature and circumstances of any offense

1 charged, including whether the offense is a crime of
2 violence, involving a weapon, or a sex offense.

3 (2) The history and characteristics of the defendant
4 including:

5 (A) Any evidence of the defendant's prior criminal
6 history indicative of violent, abusive or assaultive
7 behavior, or lack of such behavior. Such evidence may
8 include testimony or documents received in juvenile
9 proceedings, criminal, quasi-criminal, civil
10 commitment, domestic relations, or other proceedings.

11 (B) Any evidence of the defendant's psychological,
12 psychiatric or other similar social history which
13 tends to indicate a violent, abusive, or assaultive
14 nature, or lack of any such history.

15 (3) The identity of any person or persons to whose
16 safety the defendant is believed to pose a threat, and the
17 nature of the threat.†

18 (4) Any statements made by, or attributed to the
19 defendant, together with the circumstances surrounding
20 them.†

21 (5) The age and physical condition of the defendant.†

22 (6) The age and physical condition of any victim or
23 complaining witness.†

24 (7) Whether the defendant is known to possess or have
25 access to any weapon or weapons.†

26 (8) Whether, at the time of the current offense or any

1 other offense or arrest, the defendant was on probation,
2 parole, aftercare release, mandatory supervised release or
3 other release from custody pending trial, sentencing,
4 appeal or completion of sentence for an offense under
5 federal or state law.†

6 (9) Any other factors, including those listed in
7 Section 110-5 of this Article deemed by the court to have a
8 reasonable bearing upon the defendant's propensity or
9 reputation for violent, abusive, l or assaultive behavior,
10 or lack of such behavior.

11 (h) Detention order. The court shall, in any order for
12 detention:

13 (1) briefly summarize the evidence of the defendant's
14 guilt ~~or innocence~~, and the court's reasons for concluding
15 that the defendant should be denied pretrial release;

16 (2) direct that the defendant be committed to the
17 custody of the sheriff for confinement in the county jail
18 pending trial;

19 (3) direct that the defendant be given a reasonable
20 opportunity for private consultation with counsel, and for
21 communication with others of his or her choice by
22 visitation, mail and telephone; and

23 (4) direct that the sheriff deliver the defendant as
24 required for appearances in connection with court
25 proceedings.

26 (i) Detention. If the court enters an order for the

1 detention of the defendant pursuant to subsection (e) of this
2 Section, the defendant shall be brought to trial on the
3 offense for which he is detained within 120 ~~90~~ days after the
4 date on which the order for detention was entered. If the
5 defendant is not brought to trial within the 120-day ~~90-day~~
6 period required by the preceding sentence, he shall not be
7 denied pretrial release. In computing the 120-day ~~90-day~~
8 period, the court shall omit any period of delay resulting
9 from a continuance granted at the request of the defendant.

10 (j) Rights of the defendant. Any person shall be entitled
11 to appeal any order entered under this Section denying
12 pretrial release to the defendant.

13 (k) Appeal. The State may appeal any order entered under
14 this Section denying any motion for denial of pretrial
15 release.

16 (l) Presumption of innocence. Nothing in this Section
17 shall be construed as modifying or limiting in any way the
18 defendant's presumption of innocence in further criminal
19 proceedings.

20 (m) Victim notice. ~~(1)~~ Crime victims shall be given notice
21 ~~by the State's Attorney's office~~ of this hearing as required
22 in paragraph (1) of subsection (b) of Section 4.5 of the Rights
23 of Crime Victims and Witnesses Act and shall be informed of
24 their opportunity at this hearing to obtain an order of
25 protection under Article 112A of this Code.

26 (Source: P.A. 101-652, eff. 1-1-23; revised 2-28-22.)

1 Section 95. No acceleration or delay. Where this Act makes
2 changes in a statute that is represented in this Act by text
3 that is not yet or no longer in effect (for example, a Section
4 represented by multiple versions), the use of that text does
5 not accelerate or delay the taking effect of (i) the changes
6 made by this Act or (ii) provisions derived from any other
7 Public Act.

8 Section 99. Effective date. This Act takes effect January
9 1, 2023.

1 INDEX

2 Statutes amended in order of appearance

3	725 ILCS 5/109-1	from Ch. 38, par. 109-1
4	725 ILCS 5/110-1	from Ch. 38, par. 110-1
5	725 ILCS 5/110-1.5	
6	725 ILCS 5/110-2	from Ch. 38, par. 110-2
7	725 ILCS 5/110-3	from Ch. 38, par. 110-3
8	725 ILCS 5/110-4	from Ch. 38, par. 110-4
9	725 ILCS 5/110-5	from Ch. 38, par. 110-5
10	725 ILCS 5/110-6	from Ch. 38, par. 110-6
11	725 ILCS 5/110-6.1	from Ch. 38, par. 110-6.1