

HB3194



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3194

by Rep. Carol Ammons

SYNOPSIS AS INTRODUCED:

725 ILCS 5/109-1

from Ch. 38, par. 109-1

Amends the Code of Criminal Procedure of 1963. Provides that a person charged with an offense shall be allowed counsel at the hearing at which bail is determined under the Code. Provides that if the defendant desires counsel for his or her initial appearance but is unable to obtain counsel, the court shall appoint a public defender or licensed attorney at law of this State to represent him or her for purposes of that hearing.

LRB100 08119 SLF 18213 b

A BILL FOR

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 Section 109-1 as follows:

6 (725 ILCS 5/109-1) (from Ch. 38, par. 109-1)

7 Sec. 109-1. Person arrested.

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

20 (a-5) A person charged with an offense shall be allowed
21 counsel at the hearing at which bail is determined under
22 Article 110 of this Code. If the defendant desires counsel for
23 his or her initial appearance but is unable to obtain counsel,

1 the court shall appoint a public defender or licensed attorney
2 at law of this State to represent him or her for purposes of
3 that hearing.

4 (b) The judge shall:

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

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

12 (3) Schedule a preliminary hearing in appropriate
13 cases;

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

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

24 (c) The court may issue an order of protection in
25 accordance with the provisions of Article 112A of this Code.

26 (d) At the initial appearance of a defendant in any

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

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

19 (Source: P.A. 98-143, eff. 1-1-14; 99-78, eff. 7-20-15; 99-190,
20 eff. 1-1-16.)