

AN ACT concerning criminal law.

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

Section 5. The Code of Criminal Procedure of 1963 is amended by changing Sections 103-1 and 109-1 as follows:

(725 ILCS 5/103-1) (from Ch. 38, par. 103-1)

Sec. 103-1. Rights on arrest. (a) After an arrest on a warrant the person making the arrest shall inform the person arrested that a warrant has been issued for his arrest and the nature of the offense specified in the warrant.

(b) After an arrest without a warrant the person making the arrest shall inform the person arrested of the nature of the offense on which the arrest is based.

(b-5) This subsection is intended to implement and be interpreted consistently with the Vienna Convention on Consular Relations, to which the United States is a party. Article 36 of that Convention guarantees that when foreign nationals are arrested or detained, they must be advised of their right to have their consular officials notified, and if an individual chooses to exercise that right, a law enforcement official is required to notify the consulate. It does not create any new substantive State right or remedy.

(1) In accordance with federal law and the provisions

of this Section, the law enforcement official in charge of a custodial facility shall ensure that any individual booked and detained at the facility, within 48 hours of booking or detention, shall be advised that if that individual is a foreign national, he or she has a right to communicate with an official from the consulate of his or her country. This subsection (b-5) does not create any affirmative duty to investigate whether an arrestee or detainee is a foreign national.

(2) If the foreign national requests consular notification or the notification is mandatory by law, the law enforcement official in charge of the custodial facility shall ensure the notice is given to the appropriate officer at the consulate of the foreign national in accordance with the U.S. Department of State Instructions for Consular Notification and Access.

(3) The law enforcement official in charge of the custodial facility where a foreign national is located shall ensure that the foreign national is allowed to communicate with, correspond with, and be visited by, a consular officer of his or her country.

(c) No person arrested for a traffic, regulatory or misdemeanor offense, except in cases involving weapons or a controlled substance, shall be strip searched unless there is reasonable belief that the individual is concealing a weapon or controlled substance.

(d) "Strip search" means having an arrested person remove or arrange some or all of his or her clothing so as to permit a visual inspection of the genitals, buttocks, anus, female breasts or undergarments of such person.

(e) All strip searches conducted under this Section shall be performed by persons of the same sex as the arrested person and on premises where the search cannot be observed by persons not physically conducting the search.

(f) Every peace officer or employee of a police department conducting a strip search shall:

(1) Obtain the written permission of the police commander or an agent thereof designated for the purposes of authorizing a strip search in accordance with this Section.

(2) Prepare a report of the strip search. The report shall include the written authorization required by paragraph (1) of this subsection (f), the name of the person subjected to the search, the names of the persons conducting the search, and the time, date and place of the search. A copy of the report shall be provided to the person subject to the search.

(g) No search of any body cavity other than the mouth shall be conducted without a duly executed search warrant; any warrant authorizing a body cavity search shall specify that the search must be performed under sanitary conditions and conducted either by or under the supervision of a physician licensed to practice medicine in all of its branches in this State.

(h) Any peace officer or employee who knowingly or intentionally fails to comply with any provision of this Section, except subsection (b-5) of this Section, is guilty of official misconduct as provided in Section 103-8; provided however, that nothing contained in this Section shall preclude prosecution of a peace officer or employee under another section of this Code.

(i) Nothing in this Section shall be construed as limiting any statutory or common law rights of any person for purposes of any civil action or injunctive relief.

(j) The provisions of subsections (c) through (h) of this Section shall not apply when the person is taken into custody by or remanded to the sheriff or correctional institution pursuant to a court order.

(Source: P.A. 81-1509.)

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

Sec. 109-1. Person arrested.

(a) A person arrested with or without a warrant shall be taken without unnecessary delay before the nearest and most accessible judge in that county, except when such county is a participant in a regional jail authority, in which event such person may be taken to the nearest and most accessible judge, irrespective of the county where such judge presides, and a charge shall be filed. Whenever a person arrested either with or without a warrant is required to be taken before a judge, a

charge may be filed against such person by way of a two-way closed circuit television system, except that a hearing to deny bail to the defendant may not be conducted by way of closed circuit television.

(b) The judge shall:

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

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

(3) Schedule a preliminary hearing in appropriate cases;

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

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

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

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

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

(Source: P.A. 97-813, eff. 7-13-12; 98-143, eff. 1-1-14; revised 12-10-14.)