

104TH GENERAL ASSEMBLY**State of Illinois****2025 and 2026****HB0072**

Introduced 1/9/2025, by Rep. Jackie Haas

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-6.1	from Ch. 38, par. 110-6.1
725 ILCS 5/111-2.5 new	
725 ILCS 5/114-7	from Ch. 38, par. 114-7
730 ILCS 5/5-4.5-95	

Amends the Code of Criminal Procedure of 1963. Provides that, if a person has 3 or more pending charges for misdemeanor domestic battery, battery, violation of an order of protection, or criminal damage to property when the property belongs to a family or household member as defined in the Illinois Domestic Violence Act of 1986, the defendant may be charged as a habitual misdemeanant offender. Provides that the 3 or more charges alleged do not have to be for the same offense. Provides that any offense that results from or is connected with the same transaction, or results from an offense committed at the same time, shall be counted for the purposes of this provision as one offense. Provides that: (1) the third offense must have occurred after the second offense; (2) the second offense must have occurred after the first offense; and (3) all of the charged offenses must be proved at trial in order for the person to be adjudged a habitual misdemeanant offender. Provides that, once a person has been adjudged a habitual misdemeanant offender, any of the following charges for domestic battery, battery, violation of an order of protection, or criminal damage to property in which the property belongs to a family or household member as defined in the Illinois Domestic Violence Act of 1986 shall be charged as a Class 4 felony. Provides that a habitual misdemeanant offender shall be sentenced as a Class 4 felony offender for which the person shall be sentenced to a term of imprisonment of not less than one year and not more than 3 years. Provides that the court may deny pretrial release to a person charged as a habitual misdemeanant offender. Amends the Unified Code of Corrections to make conforming changes.

LRB104 03322 RLC 13344 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 110-6.1 and 114-7 and by adding
6 Section 111-2.5 as follows:

7 (725 ILCS 5/110-6.1) (from Ch. 38, par. 110-6.1)

8 (Text of Section before amendment by P.A. 103-822)

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

10 (a) Upon verified petition by the State, the court shall
11 hold a hearing and may deny a defendant pretrial release only
12 if:

13 (1) the defendant is charged with a felony offense
14 other than a forcible felony for which, based on the
15 charge or the defendant's criminal history, a sentence of
16 imprisonment, without probation, periodic imprisonment or
17 conditional discharge, is required by law upon conviction,
18 and it is alleged that the defendant's pretrial release
19 poses a real and present threat to the safety of any person
20 or persons or the community, based on the specific
21 articulable facts of the case;

22 (1.5) the defendant's pretrial release poses a real
23 and present threat to the safety of any person or persons

1 or the community, based on the specific articulable facts
2 of the case, and the defendant is charged with a forcible
3 felony, which as used in this Section, means treason,
4 first degree murder, second degree murder, predatory
5 criminal sexual assault of a child, aggravated criminal
6 sexual assault, criminal sexual assault, armed robbery,
7 aggravated robbery, robbery, burglary where there is use
8 of force against another person, residential burglary,
9 home invasion, vehicular invasion, aggravated arson,
10 arson, aggravated kidnaping, kidnaping, aggravated battery
11 resulting in great bodily harm or permanent disability or
12 disfigurement or any other felony which involves the
13 threat of or infliction of great bodily harm or permanent
14 disability or disfigurement;

15 (2) the defendant is charged with stalking or
16 aggravated stalking, and it is alleged that the
17 defendant's pre-trial release poses a real and present
18 threat to the safety of a victim of the alleged offense,
19 and denial of release is necessary to prevent fulfillment
20 of the threat upon which the charge is based;

21 (3) the defendant is charged with a violation of an
22 order of protection issued under Section 112A-14 of this
23 Code or Section 214 of the Illinois Domestic Violence Act
24 of 1986, a stalking no contact order under Section 80 of
25 the Stalking No Contact Order Act, or of a civil no contact
26 order under Section 213 of the Civil No Contact Order Act,

1 and it is alleged that the defendant's pretrial release
2 poses a real and present threat to the safety of any person
3 or persons or the community, based on the specific
4 articulable facts of the case;

5 (4) the defendant is charged with domestic battery or
6 aggravated domestic battery under Section 12-3.2 or 12-3.3
7 of the Criminal Code of 2012 and it is alleged that the
8 defendant's pretrial release poses a real and present
9 threat to the safety of any person or persons or the
10 community, based on the specific articulable facts of the
11 case;

12 (5) the defendant is charged with any offense under
13 Article 11 of the Criminal Code of 2012, except for
14 Sections 11-14, 11-14.1, 11-18, 11-20, 11-30, 11-35,
15 11-40, and 11-45 of the Criminal Code of 2012, or similar
16 provisions of the Criminal Code of 1961 and it is alleged
17 that the defendant's pretrial release poses a real and
18 present threat to the safety of any person or persons or
19 the community, based on the specific articulable facts of
20 the case;

21 (6) the defendant is charged with any of the following
22 offenses under the Criminal Code of 2012, and it is
23 alleged that the defendant's pretrial release poses a real
24 and present threat to the safety of any person or persons
25 or the community, based on the specific articulable facts
26 of the case:

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

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

(C) Section 24-1.5 (reckless discharge of a firearm);

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

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

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

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

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

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

(J) Section 24-3A (gunrunning);

(K) Section 24-3B (firearms trafficking);

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

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

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

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

(P) Section 9-3 (reckless homicide and involuntary manslaughter);

(Q) Section 19-3 (residential burglary);

(R) Section 10-5 (child abduction);

(S) Felony violations of Section 12C-5 (child endangerment);

(T) Section 12-7.1 (hate crime);

(U) Section 10-3.1 (aggravated unlawful restraint);

(V) Section 12-9 (threatening a public official);

(W) Subdivision (f) (1) of Section 12-3.05
(aggravated battery with a deadly weapon other than by
discharge of a firearm);

(6.5) the defendant is charged with any of the following offenses, and it is alleged that the defendant's pretrial release poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case:

(A) Felony violations of Sections 3.01, 3.02, or

1 3.03 of the Humane Care for Animals Act (cruel
2 treatment, aggravated cruelty, and animal torture);

3 (B) Subdivision (d) (1) (B) of Section 11-501 of the
4 Illinois Vehicle Code (aggravated driving under the
5 influence while operating a school bus with
6 passengers);

7 (C) Subdivision (d) (1) (C) of Section 11-501 of the
8 Illinois Vehicle Code (aggravated driving under the
9 influence causing great bodily harm);

10 (D) Subdivision (d) (1) (D) of Section 11-501 of the
11 Illinois Vehicle Code (aggravated driving under the
12 influence after a previous reckless homicide
13 conviction);

14 (E) Subdivision (d) (1) (F) of Section 11-501 of the
15 Illinois Vehicle Code (aggravated driving under the
16 influence leading to death); or

17 (F) Subdivision (d) (1) (J) of Section 11-501 of the
18 Illinois Vehicle Code (aggravated driving under the
19 influence that resulted in bodily harm to a child
20 under the age of 16);

21 (7) the defendant is charged with an attempt to commit
22 any charge listed in paragraphs (1) through (6.5), and it
23 is alleged that the defendant's pretrial release poses a
24 real and present threat to the safety of any person or
25 persons or the community, based on the specific
26 articulable facts of the case; or

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

(A) Any felony described in subdivisions (a)(1) through (a)(7) of this Section; or

(B) A felony offense other than a Class 4 offense.

(b) If the charged offense is a felony, as part of the detention hearing, the court shall determine whether there is probable cause the defendant has committed an offense, unless a hearing pursuant to Section 109-3 of this Code has already been held or a grand jury has returned a true bill of indictment against the defendant. If there is a finding of no probable cause, the defendant shall be released. No such finding is necessary if the defendant is charged with a misdemeanor.

(c) Timing of petition.

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

(2) Upon filing, the court shall immediately hold a hearing on the petition unless a continuance is requested. If a continuance is requested and granted, the hearing shall be held within 48 hours of the defendant's first

1 appearance if the defendant is charged with first degree
2 murder or a Class X, Class 1, Class 2, or Class 3 felony,
3 and within 24 hours if the defendant is charged with a
4 Class 4 or misdemeanor offense. The Court may deny or
5 grant the request for continuance. If the court decides to
6 grant the continuance, the Court retains the discretion to
7 detain or release the defendant in the time between the
8 filing of the petition and the hearing.

9 (d) Contents of petition.

10 (1) The petition shall be verified by the State and
11 shall state the grounds upon which it contends the
12 defendant should be denied pretrial release, including the
13 real and present threat to the safety of any person or
14 persons or the community, based on the specific
15 articulable facts or flight risk, as appropriate.

16 (2) If the State seeks to file a second or subsequent
17 petition under this Section, the State shall be required
18 to present a verified application setting forth in detail
19 any new facts not known or obtainable at the time of the
20 filing of the previous petition.

21 (e) Eligibility: All defendants shall be presumed eligible
22 for pretrial release, and the State shall bear the burden of
23 proving by clear and convincing evidence that:

24 (1) the proof is evident or the presumption great that
25 the defendant has committed an offense listed in
26 subsection (a), and

(2) for offenses listed in paragraphs (1) through (7) of subsection (a), the defendant poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, by conduct which may include, but is not limited to, a forcible felony, the obstruction of justice, intimidation, injury, or abuse as defined by paragraph (1) of Section 103 of the Illinois Domestic Violence Act of 1986, and

(3) no condition or combination of conditions set forth in subsection (b) of Section 110-10 of this Article can mitigate (i) the real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, for offenses listed in paragraphs (1) through (7) of subsection (a), or (ii) the defendant's willful flight for offenses listed in paragraph (8) of subsection (a), and

(4) for offenses under subsection (b) of Section 407 of the Illinois Controlled Substances Act that are subject to paragraph (1) of subsection (a), no condition or combination of conditions set forth in subsection (b) of Section 110-10 of this Article can mitigate the real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, and the defendant poses a serious risk to not appear in court as required.

(f) Conduct of the hearings.

(1) Prior to the hearing, the State shall tender to the defendant copies of the defendant's criminal history available, any written or recorded statements, and the substance of any oral statements made by any person, if relied upon by the State in its petition, and any police reports in the prosecutor's possession at the time of the hearing.

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

(3) The defendant has the right to be represented by counsel, and if he or she is indigent, to have counsel appointed for him or her. The defendant shall have the opportunity to testify, to present witnesses on his or her own behalf, and to cross-examine any witnesses that are called by the State. Defense counsel shall be given adequate opportunity to confer with the defendant before any hearing at which conditions of release or the detention of the defendant are to be considered, with an accommodation for a physical condition made to facilitate attorney/client consultation. If defense counsel needs to confer or consult with the defendant during any hearing conducted via a two-way audio-visual communication system, such consultation shall not be recorded and shall be undertaken consistent with constitutional protections.

(3.5) A hearing at which pretrial release may be

1 denied must be conducted in person (and not by way of
2 two-way audio visual communication) unless the accused
3 waives the right to be present physically in court, the
4 court determines that the physical health and safety of
5 any person necessary to the proceedings would be
6 endangered by appearing in court, or the chief judge of
7 the circuit orders use of that system due to operational
8 challenges in conducting the hearing in person. Such
9 operational challenges must be documented and approved by
10 the chief judge of the circuit, and a plan to address the
11 challenges through reasonable efforts must be presented
12 and approved by the Administrative Office of the Illinois
13 Courts every 6 months.

14 (4) If the defense seeks to compel the complaining
15 witness to testify as a witness in its favor, it shall
16 petition the court for permission. When the ends of
17 justice so require, the court may exercise its discretion
18 and compel the appearance of a complaining witness. The
19 court shall state on the record reasons for granting a
20 defense request to compel the presence of a complaining
21 witness only on the issue of the defendant's pretrial
22 detention. In making a determination under this Section,
23 the court shall state on the record the reason for
24 granting a defense request to compel the presence of a
25 complaining witness, and only grant the request if the
26 court finds by clear and convincing evidence that the

1 defendant will be materially prejudiced if the complaining
2 witness does not appear. Cross-examination of a
3 complaining witness at the pretrial detention hearing for
4 the purpose of impeaching the witness' credibility is
5 insufficient reason to compel the presence of the witness.
6 In deciding whether to compel the appearance of a
7 complaining witness, the court shall be considerate of the
8 emotional and physical well-being of the witness. The
9 pre-trial detention hearing is not to be used for purposes
10 of discovery, and the post arraignment rules of discovery
11 do not apply. The State shall tender to the defendant,
12 prior to the hearing, copies, if any, of the defendant's
13 criminal history, if available, and any written or
14 recorded statements and the substance of any oral
15 statements made by any person, if in the State's
16 Attorney's possession at the time of the hearing.

17 (5) The rules concerning the admissibility of evidence
18 in criminal trials do not apply to the presentation and
19 consideration of information at the hearing. At the trial
20 concerning the offense for which the hearing was conducted
21 neither the finding of the court nor any transcript or
22 other record of the hearing shall be admissible in the
23 State's case-in-chief, but shall be admissible for
24 impeachment, or as provided in Section 115-10.1 of this
25 Code, or in a perjury proceeding.

26 (6) The defendant may not move to suppress evidence or

1 a confession, however, evidence that proof of the charged
2 crime may have been the result of an unlawful search or
3 seizure, or both, or through improper interrogation, is
4 relevant in assessing the weight of the evidence against
5 the defendant.

6 (7) Decisions regarding release, conditions of
7 release, and detention prior to trial must be
8 individualized, and no single factor or standard may be
9 used exclusively to order detention. Risk assessment tools
10 may not be used as the sole basis to deny pretrial release.

11 (g) Factors to be considered in making a determination of
12 dangerousness. The court may, in determining whether the
13 defendant poses a real and present threat to the safety of any
14 person or persons or the community, based on the specific
15 articulable facts of the case, consider, but shall not be
16 limited to, evidence or testimony concerning:

17 (1) The nature and circumstances of any offense
18 charged, including whether the offense is a crime of
19 violence, involving a weapon, or a sex offense.

20 (2) The history and characteristics of the defendant
21 including:

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

commitment, domestic relations, or other proceedings.

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

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

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

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

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

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

(8) Whether, at the time of the current offense or any other offense or arrest, the defendant was on probation, parole, aftercare release, mandatory supervised release or other release from custody pending trial, sentencing, appeal or completion of sentence for an offense under federal or state law.

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

1 or lack of such behavior.

2 (h) Detention order. The court shall, in any order for
3 detention:

4 (1) make a written finding summarizing the court's
5 reasons for concluding that the defendant should be denied
6 pretrial release, including why less restrictive
7 conditions would not avoid a real and present threat to
8 the safety of any person or persons or the community,
9 based on the specific articulable facts of the case, or
10 prevent the defendant's willful flight from prosecution;

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

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

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

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

1 the preceding sentence, he shall not be denied pretrial
2 release. In computing the 90-day period, the court shall omit
3 any period of delay resulting from a continuance granted at
4 the request of the defendant and any period of delay resulting
5 from a continuance granted at the request of the State with
6 good cause shown pursuant to Section 103-5.

7 (i-5) At each subsequent appearance of the defendant
8 before the court, the judge must find that continued detention
9 is necessary to avoid a real and present threat to the safety
10 of any person or persons or the community, based on the
11 specific articulable facts of the case, or to prevent the
12 defendant's willful flight from prosecution.

13 (j) Rights of the defendant. The defendant shall be
14 entitled to appeal any order entered under this Section
15 denying his or her pretrial release.

16 (k) Appeal. The State may appeal any order entered under
17 this Section denying any motion for denial of pretrial
18 release.

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

23 (m) Interest of victims.

24 (1) Crime victims shall be given notice by the State's
25 Attorney's office of this hearing as required in paragraph (1)
26 of subsection (b) of Section 4.5 of the Rights of Crime Victims

1 and Witnesses Act and shall be informed of their opportunity
2 at this hearing to obtain a protective order.

3 (2) If the defendant is denied pretrial release, the court
4 may impose a no contact provision with the victim or other
5 interested party that shall be enforced while the defendant
6 remains in custody.

7 (Source: P.A. 101-652, eff. 1-1-23; 102-1104, eff. 1-1-23.)

8 (Text of Section after amendment by P.A. 103-822)

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

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13 (1) the defendant is charged with a felony offense
14 other than a forcible felony for which, based on the
15 charge or the defendant's criminal history, a sentence of
16 imprisonment, without probation, periodic imprisonment or
17 conditional discharge, is required by law upon conviction,
18 and it is alleged that the defendant's pretrial release
19 poses a real and present threat to the safety of any person
20 or persons or the community, based on the specific
21 articulable facts of the case;

22 (1.5) the defendant's pretrial release poses a real
23 and present threat to the safety of any person or persons
24 or the community, based on the specific articulable facts
25 of the case, and the defendant is charged with a forcible

1 felony, which as used in this Section, means treason,
2 first degree murder, second degree murder, predatory
3 criminal sexual assault of a child, aggravated criminal
4 sexual assault, criminal sexual assault, armed robbery,
5 aggravated robbery, robbery, burglary where there is use
6 of force against another person, residential burglary,
7 home invasion, vehicular invasion, aggravated arson,
8 arson, aggravated kidnaping, kidnaping, aggravated battery
9 resulting in great bodily harm or permanent disability or
10 disfigurement or any other felony which involves the
11 threat of or infliction of great bodily harm or permanent
12 disability or disfigurement;

13 (2) the defendant is charged with stalking or
14 aggravated stalking, and it is alleged that the
15 defendant's pre-trial release poses a real and present
16 threat to the safety of a victim of the alleged offense,
17 and denial of release is necessary to prevent fulfillment
18 of the threat upon which the charge is based;

19 (3) the defendant is charged with a violation of an
20 order of protection issued under Section 112A-14 of this
21 Code or Section 214 of the Illinois Domestic Violence Act
22 of 1986, a stalking no contact order under Section 80 of
23 the Stalking No Contact Order Act, or of a civil no contact
24 order under Section 213 of the Civil No Contact Order Act,
25 and it is alleged that the defendant's pretrial release
26 poses a real and present threat to the safety of any person

1 or persons or the community, based on the specific
2 articulable facts of the case;

3 (4) the defendant is charged with domestic battery or
4 aggravated domestic battery under Section 12-3.2 or 12-3.3
5 of the Criminal Code of 2012 and it is alleged that the
6 defendant's pretrial release poses a real and present
7 threat to the safety of any person or persons or the
8 community, based on the specific articulable facts of the
9 case;

10 (5) the defendant is charged with any offense under
11 Article 11 of the Criminal Code of 2012, except for
12 Sections 11-14, 11-14.1, 11-18, 11-20, 11-30, 11-35,
13 11-40, and 11-45 of the Criminal Code of 2012, or similar
14 provisions of the Criminal Code of 1961 and it is alleged
15 that the defendant's pretrial release poses a real and
16 present threat to the safety of any person or persons or
17 the community, based on the specific articulable facts of
18 the case;

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20 offenses under the Criminal Code of 2012, and it is
21 alleged that the defendant's pretrial release poses a real
22 and present threat to the safety of any person or persons
23 or the community, based on the specific articulable facts
24 of the case:

25 (A) Section 24-1.2 (aggravated discharge of a
26 firearm);

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

(C) Section 24-1.5 (reckless discharge of a firearm);

(D) Section 24-1.7 (unlawful possession of a firearm by a repeat felony offender);

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

(F) Section 24-3 (unlawful sale or delivery of firearms):

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

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

(I) Section 24-3.5 (unlawful purchase of a firearm).

(I) Section 34 3A (gunrunning):

(K) Section 34-3B (firearms trafficking):

(I) Section 10-8 (b) (involuntary servitude):

(M) Section 10-9 (c) (involuntary sexual servitude minors).

(N) Section 10-8(d) (trafficking in persons):

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

(P) Section 9-3 (reckless homicide and involuntary manslaughter);

(Q) Section 19-3 (residential burglary);

(R) Section 10-5 (child abduction);

(S) Felony violations of Section 12C-5 (child endangerment);

(T) Section 12-7.1 (hate crime);

(U) Section 10-3.1 (aggravated unlawful restraint);

(V) Section 12-9 (threatening a public official);

(W) Subdivision (f) (1) of Section 12-3.05
(aggravated battery with a deadly weapon other than by
discharge of a firearm);

(6.5) the defendant is charged with any of the following offenses, and it is alleged that the defendant's pretrial release poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case:

(A) Felony violations of Sections 3.01, 3.02, or 3.03 of the Humane Care for Animals Act (cruel

1 treatment, aggravated cruelty, and animal torture);

2 (B) Subdivision (d) (1) (B) of Section 11-501 of the
3 Illinois Vehicle Code (aggravated driving under the
4 influence while operating a school bus with
5 passengers);

6 (C) Subdivision (d) (1) (C) of Section 11-501 of the
7 Illinois Vehicle Code (aggravated driving under the
8 influence causing great bodily harm);

9 (D) Subdivision (d) (1) (D) of Section 11-501 of the
10 Illinois Vehicle Code (aggravated driving under the
11 influence after a previous reckless homicide
12 conviction);

13 (E) Subdivision (d) (1) (F) of Section 11-501 of the
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15 influence leading to death); or

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17 Illinois Vehicle Code (aggravated driving under the
18 influence that resulted in bodily harm to a child
19 under the age of 16);

20 (7) the defendant is charged with an attempt to commit
21 any charge listed in paragraphs (1) through (6.5), and it
22 is alleged that the defendant's pretrial release poses a
23 real and present threat to the safety of any person or
24 persons or the community, based on the specific
25 articulable facts of the case; ~~or~~

26 (8) the person has a high likelihood of willful flight

1 to avoid prosecution and is charged with:

2 (A) Any felony described in subdivisions (a)(1)
3 through (a)(7) of this Section; or

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

5 or-

6 (9) the defendant is charged as a habitual
7 misdemeanant offender.

8 (b) If the charged offense is a felony, as part of the
9 detention hearing, the court shall determine whether there is
10 probable cause the defendant has committed an offense, unless
11 a hearing pursuant to Section 109-3 of this Code has already
12 been held or a grand jury has returned a true bill of
13 indictment against the defendant. If there is a finding of no
14 probable cause, the defendant shall be released. No such
15 finding is necessary if the defendant is charged with a
16 misdemeanor.

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

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26 hearing on the petition unless a continuance is requested.

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3 appearance if the defendant is charged with first degree
4 murder or a Class X, Class 1, Class 2, or Class 3 felony,
5 and within 24 hours if the defendant is charged with a
6 Class 4 or misdemeanor offense. The Court may deny or
7 grant the request for continuance. If the court decides to
8 grant the continuance, the Court retains the discretion to
9 detain or release the defendant in the time between the
10 filing of the petition and the hearing.

11 (d) Contents of petition.

12 (1) The petition shall be verified by the State and
13 shall state the grounds upon which it contends the
14 defendant should be denied pretrial release, including the
15 real and present threat to the safety of any person or
16 persons or the community, based on the specific
17 articulable facts or flight risk, as appropriate.

18 (2) If the State seeks to file a second or subsequent
19 petition under this Section, the State shall be required
20 to present a verified application setting forth in detail
21 any new facts not known or obtainable at the time of the
22 filing of the previous petition.

23 (e) Eligibility: All defendants shall be presumed eligible
24 for pretrial release, and the State shall bear the burden of
25 proving by clear and convincing evidence that:

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

1 the defendant has committed an offense listed in
2 subsection (a), and

3 (2) for offenses listed in paragraphs (1) through (7)
4 of subsection (a), the defendant poses a real and present
5 threat to the safety of any person or persons or the
6 community, based on the specific articulable facts of the
7 case, by conduct which may include, but is not limited to,
8 a forcible felony, the obstruction of justice,
9 intimidation, injury, or abuse as defined by paragraph (1)
10 of Section 103 of the Illinois Domestic Violence Act of
11 1986, and

12 (3) no condition or combination of conditions set
13 forth in subsection (b) of Section 110-10 of this Article
14 can mitigate (i) the real and present threat to the safety
15 of any person or persons or the community, based on the
16 specific articulable facts of the case, for offenses
17 listed in paragraphs (1) through (7) of subsection (a), or
18 (ii) the defendant's willful flight for offenses listed in
19 paragraph (8) of subsection (a), and

20 (4) for offenses under subsection (b) of Section 407
21 of the Illinois Controlled Substances Act that are subject
22 to paragraph (1) of subsection (a), no condition or
23 combination of conditions set forth in subsection (b) of
24 Section 110-10 of this Article can mitigate the real and
25 present threat to the safety of any person or persons or
26 the community, based on the specific articulable facts of

1 the case, and the defendant poses a serious risk to not
2 appear in court as required.

3 (f) Conduct of the hearings.

4 (1) Prior to the hearing, the State shall tender to
5 the defendant copies of the defendant's criminal history
6 available, any written or recorded statements, and the
7 substance of any oral statements made by any person, if
8 relied upon by the State in its petition, and any police
9 reports in the prosecutor's possession at the time of the
10 hearing.

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

13 (3) The defendant has the right to be represented by
14 counsel, and if he or she is indigent, to have counsel
15 appointed for him or her. The defendant shall have the
16 opportunity to testify, to present witnesses on his or her
17 own behalf, and to cross-examine any witnesses that are
18 called by the State. Defense counsel shall be given
19 adequate opportunity to confer with the defendant before
20 any hearing at which conditions of release or the
21 detention of the defendant are to be considered, with an
22 accommodation for a physical condition made to facilitate
23 attorney/client consultation. If defense counsel needs to
24 confer or consult with the defendant during any hearing
25 conducted via a two-way audio-visual communication system,
26 such consultation shall not be recorded and shall be

1 undertaken consistent with constitutional protections.

2 (3.5) A hearing at which pretrial release may be
3 denied must be conducted in person (and not by way of
4 two-way audio visual communication) unless the accused
5 waives the right to be present physically in court, the
6 court determines that the physical health and safety of
7 any person necessary to the proceedings would be
8 endangered by appearing in court, or the chief judge of
9 the circuit orders use of that system due to operational
10 challenges in conducting the hearing in person. Such
11 operational challenges must be documented and approved by
12 the chief judge of the circuit, and a plan to address the
13 challenges through reasonable efforts must be presented
14 and approved by the Administrative Office of the Illinois
15 Courts every 6 months.

16 (4) If the defense seeks to compel the complaining
17 witness to testify as a witness in its favor, it shall
18 petition the court for permission. When the ends of
19 justice so require, the court may exercise its discretion
20 and compel the appearance of a complaining witness. The
21 court shall state on the record reasons for granting a
22 defense request to compel the presence of a complaining
23 witness only on the issue of the defendant's pretrial
24 detention. In making a determination under this Section,
25 the court shall state on the record the reason for
26 granting a defense request to compel the presence of a

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

19 (5) The rules concerning the admissibility of evidence
20 in criminal trials do not apply to the presentation and
21 consideration of information at the hearing. At the trial
22 concerning the offense for which the hearing was conducted
23 neither the finding of the court nor any transcript or
24 other record of the hearing shall be admissible in the
25 State's case-in-chief, but shall be admissible for
26 impeachment, or as provided in Section 115-10.1 of this

1 Code, or in a perjury proceeding.

2 (6) The defendant may not move to suppress evidence or
3 a confession, however, evidence that proof of the charged
4 crime may have been the result of an unlawful search or
5 seizure, or both, or through improper interrogation, is
6 relevant in assessing the weight of the evidence against
7 the defendant.

8 (7) Decisions regarding release, conditions of
9 release, and detention prior to trial must be
10 individualized, and no single factor or standard may be
11 used exclusively to order detention. Risk assessment tools
12 may not be used as the sole basis to deny pretrial release.

13 (g) Factors to be considered in making a determination of
14 dangerousness. The court may, in determining whether the
15 defendant poses a real and present threat to the safety of any
16 person or persons or the community, based on the specific
17 articulable facts of the case, consider, but shall not be
18 limited to, evidence or testimony concerning:

19 (1) The nature and circumstances of any offense
20 charged, including whether the offense is a crime of
21 violence, involving a weapon, or a sex offense.

22 (2) The history and characteristics of the defendant
23 including:

24 (A) Any evidence of the defendant's prior criminal
25 history indicative of violent, abusive or assaultive
26 behavior, or lack of such behavior. Such evidence may

1 include testimony or documents received in juvenile
2 proceedings, criminal, quasi-criminal, civil
3 commitment, domestic relations, or other proceedings.

4 (B) Any evidence of the defendant's psychological,
5 psychiatric or other similar social history which
6 tends to indicate a violent, abusive, or assaultive
7 nature, or lack of any such history.

8 (3) The identity of any person or persons to whose
9 safety the defendant is believed to pose a threat, and the
10 nature of the threat.

11 (4) Any statements made by, or attributed to the
12 defendant, together with the circumstances surrounding
13 them.

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

15 (6) The age and physical condition of any victim or
16 complaining witness.

17 (7) Whether the defendant is known to possess or have
18 access to any weapon or weapons.

19 (8) Whether, at the time of the current offense or any
20 other offense or arrest, the defendant was on probation,
21 parole, aftercare release, mandatory supervised release or
22 other release from custody pending trial, sentencing,
23 appeal or completion of sentence for an offense under
24 federal or state law.

25 (9) Any other factors, including those listed in
26 Section 110-5 of this Article deemed by the court to have a

1 reasonable bearing upon the defendant's propensity or
2 reputation for violent, abusive, or assaultive behavior,
3 or lack of such behavior.

4 (h) Detention order. The court shall, in any order for
5 detention:

6 (1) make a written finding summarizing the court's
7 reasons for concluding that the defendant should be denied
8 pretrial release, including why less restrictive
9 conditions would not avoid a real and present threat to
10 the safety of any person or persons or the community,
11 based on the specific articulable facts of the case, or
12 prevent the defendant's willful flight from prosecution;

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

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

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

23 (i) Detention. If the court enters an order for the
24 detention of the defendant pursuant to subsection (e) of this
25 Section, the defendant shall be brought to trial on the
26 offense for which he is detained within 90 days after the date

1 on which the order for detention was entered. If the defendant
2 is not brought to trial within the 90-day period required by
3 the preceding sentence, he shall not be denied pretrial
4 release. In computing the 90-day period, the court shall omit
5 any period of delay resulting from a continuance granted at
6 the request of the defendant and any period of delay resulting
7 from a continuance granted at the request of the State with
8 good cause shown pursuant to Section 103-5.

9 (i-5) At each subsequent appearance of the defendant
10 before the court, the judge must find that continued detention
11 is necessary to avoid a real and present threat to the safety
12 of any person or persons or the community, based on the
13 specific articulable facts of the case, or to prevent the
14 defendant's willful flight from prosecution.

15 (j) Rights of the defendant. The defendant shall be
16 entitled to appeal any order entered under this Section
17 denying his or her pretrial release.

18 (k) Appeal. The State may appeal any order entered under
19 this Section denying any motion for denial of pretrial
20 release.

21 (l) Presumption of innocence. Nothing in this Section
22 shall be construed as modifying or limiting in any way the
23 defendant's presumption of innocence in further criminal
24 proceedings.

25 (m) Interest of victims.

26 (1) Crime victims shall be given notice by the State's

1 Attorney's office of this hearing as required in paragraph (1)
2 of subsection (b) of Section 4.5 of the Rights of Crime Victims
3 and Witnesses Act and shall be informed of their opportunity
4 at this hearing to obtain a protective order.

5 (2) If the defendant is denied pretrial release, the court
6 may impose a no contact provision with the victim or other
7 interested party that shall be enforced while the defendant
8 remains in custody.

9 (Source: P.A. 102-1104, eff. 1-1-23; 103-822, eff. 1-1-25.)

10 (725 ILCS 5/111-2.5 new)

11 Sec. 111-2.5. Habitual misdemeanor offender; charges.

12 (a) If a person has 3 or more pending charges for
13 misdemeanor domestic battery, battery, violation of an order
14 of protection, or criminal damage to property when the
15 property belongs to a family or household member as defined in
16 Section 103 of the Illinois Domestic Violence Act of 1986, the
17 defendant may be charged as a habitual misdemeanor offender.

18 (b) The 3 or more charges alleged do not have to be for the
19 same offense. Any offense that results from or is connected
20 with the same transaction, or results from an offense
21 committed at the same time, shall be counted for the purposes
22 of this Section as one offense.

23 (c) This Section does not apply unless each of the
24 following requirements are satisfied:

25 (1) The third offense occurred after the second

1 offense.

2 (2) The second offense occurred after the first
3 offense.

4 (3) All of the charged offenses must be proved at
5 trial in order for the person to be adjudged a habitual
6 misdemeanant offender.

7 (d) Once a person has been adjudged a habitual
8 misdemeanant offender any of the following charges for
9 domestic battery, battery, violation of an order of
10 protection, or criminal damage to property in which the
11 property belongs to a family or household member as defined in
12 Section 103 of the Illinois Domestic Violence Act of 1986
13 shall be charged as a Class 4 felony.

14 (e) All of the charged offenses must be proved at trial in
15 order for the person to be adjudged a habitual misdemeanor
16 offender.

17 (f) Sentence. A habitual misdemeanor offender shall be
18 sentenced as a Class 4 felony offender for which the person
19 shall be sentenced to a term of imprisonment of not less than
20 one year and not more than 3 years.

21 (725 ILCS 5/114-7) (from Ch. 38, par. 114-7)

22 Sec. 114-7. Joinder of related prosecutions.

23 The court may order 2 or more charges to be tried together
24 if the offenses and the defendants could have been joined in a
25 single charge. If a person is charged as a habitual

1 misdemeanant offender, all charges needed to adjudicate the
2 defendant as a habitual misdemeanant offender shall be tried
3 together. The procedure shall be the same as if the
4 prosecution were under a single charge.

5 (Source: Laws 1963, p. 2836.)

6 Section 10. The Unified Code of Corrections is amended by
7 changing Section 5-4.5-95 as follows:

8 (730 ILCS 5/5-4.5-95)

9 Sec. 5-4.5-95. GENERAL RECIDIVISM PROVISIONS.

10 (a) HABITUAL CRIMINALS.

11 (1) Every person who has been twice convicted in any
12 state or federal court of an offense that contains the
13 same elements as an offense now (the date of the offense
14 committed after the 2 prior convictions) classified in
15 Illinois as a Class X felony, criminal sexual assault,
16 aggravated kidnapping, or first degree murder, and who is
17 thereafter convicted of a Class X felony, criminal sexual
18 assault, or first degree murder, committed after the 2
19 prior convictions, shall be adjudged an habitual criminal.

20 (2) The 2 prior convictions need not have been for the
21 same offense.

22 (3) Any convictions that result from or are connected
23 with the same transaction, or result from offenses
24 committed at the same time, shall be counted for the

1 purposes of this Section as one conviction.

2 (4) This Section does not apply unless each of the
3 following requirements are satisfied:

4 (A) The third offense was committed after July 3,
5 1980.

6 (B) The third offense was committed within 20
7 years of the date that judgment was entered on the
8 first conviction; provided, however, that time spent
9 in custody shall not be counted.

10 (C) The third offense was committed after
11 conviction on the second offense.

12 (D) The second offense was committed after
13 conviction on the first offense.

14 (E) The first offense was committed when the
15 person was 21 years of age or older.

16 (5) Anyone who is adjudged an habitual criminal shall
17 be sentenced to a term of natural life imprisonment.

18 (6) A prior conviction shall not be alleged in the
19 indictment, and no evidence or other disclosure of that
20 conviction shall be presented to the court or the jury
21 during the trial of an offense set forth in this Section
22 unless otherwise permitted by the issues properly raised
23 in that trial. After a plea or verdict or finding of guilty
24 and before sentence is imposed, the prosecutor may file
25 with the court a verified written statement signed by the
26 State's Attorney concerning any former conviction of an

1 offense set forth in this Section rendered against the
2 defendant. The court shall then cause the defendant to be
3 brought before it; shall inform the defendant of the
4 allegations of the statement so filed, and of his or her
5 right to a hearing before the court on the issue of that
6 former conviction and of his or her right to counsel at
7 that hearing; and unless the defendant admits such
8 conviction, shall hear and determine the issue, and shall
9 make a written finding thereon. If a sentence has
10 previously been imposed, the court may vacate that
11 sentence and impose a new sentence in accordance with this
12 Section.

13 (7) A duly authenticated copy of the record of any
14 alleged former conviction of an offense set forth in this
15 Section shall be prima facie evidence of that former
16 conviction; and a duly authenticated copy of the record of
17 the defendant's final release or discharge from probation
18 granted, or from sentence and parole supervision (if any)
19 imposed pursuant to that former conviction, shall be prima
20 facie evidence of that release or discharge.

21 (8) Any claim that a previous conviction offered by
22 the prosecution is not a former conviction of an offense
23 set forth in this Section because of the existence of any
24 exceptions described in this Section, is waived unless
25 duly raised at the hearing on that conviction, or unless
26 the prosecution's proof shows the existence of the

1 exceptions described in this Section.

2 (9) If the person so convicted shows to the
3 satisfaction of the court before whom that conviction was
4 had that he or she was released from imprisonment, upon
5 either of the sentences upon a pardon granted for the
6 reason that he or she was innocent, that conviction and
7 sentence shall not be considered under this Section.

8 (b) When a defendant, over the age of 21 years, is
9 convicted of a Class 1 or Class 2 forcible felony after having
10 twice been convicted in any state or federal court of an
11 offense that contains the same elements as an offense now (the
12 date the Class 1 or Class 2 forcible felony was committed)
13 classified in Illinois as a Class 2 or greater Class forcible
14 felony and those charges are separately brought and tried and
15 arise out of different series of acts, that defendant shall be
16 sentenced as a Class X offender. This subsection does not
17 apply unless:

18 (1) the first forcible felony was committed after
19 February 1, 1978 (the effective date of Public Act
20 80-1099);

21 (2) the second forcible felony was committed after
22 conviction on the first;

23 (3) the third forcible felony was committed after
24 conviction on the second; and

25 (4) the first offense was committed when the person
26 was 21 years of age or older.

(c) (Blank).

A person sentenced as a Class X offender under this subsection (b) is not eligible to apply for treatment as a condition of probation as provided by Section 40-10 of the Substance Use Disorder Act (20 ILCS 301/40-10).

(d) A habitual misdemeanant offender as described in Section 111-2.5 of the Code of Criminal Procedure of 1963 shall be sentenced as a Class 4 felony offender for which the person shall be sentenced to a term of imprisonment of not less than one year and not more than 3 years.

(Source: P.A. 100-3, eff. 1-1-18; 100-759, eff. 1-1-19;
101-652, eff. 7-1-21.)

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