



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB4204

by Rep. Dennis Tipsword

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-2

from Ch. 38, par. 110-2

725 ILCS 5/110-6.1

from Ch. 38, par. 110-6.1

Amends the Code of Criminal Procedure of 1963. Provides that in cases involving domestic violence or sex offenses, as defined in the Sex Offender Registration Act, in which the victim, at the time of the offense, was under 18 years of age, the presumption is that the defendant is to be detained, unless the judge makes a finding that the defendant is not a threat to the alleged victim, witnesses, or community. Provides that upon this finding, the defendant is entitled to be released on personal recognizance on the condition that the defendant attend all required court proceedings and the defendant does not commit any criminal offense and complies with all terms of pretrial release. Provides that upon verified petition by the State, the court shall hold a hearing and may deny a defendant pretrial release if the defendant is charged with domestic battery or aggravated domestic battery or a sex offense, as defined in the Sex Offender Registration Act, in which the victim, at the time of the offense, was under 18 years of age and the judge cannot make a finding that (rather than it is alleged that) the defendant's pretrial release does not pose (rather than poses) a real and present threat to the safety of the victim, the victim's family, or society (rather than any person or persons or the community), based on the specific articulable facts of the case.

LRB104 13825 RLC 26625 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 110-2 and 110-6.1 as follows:

6 (725 ILCS 5/110-2) (from Ch. 38, par. 110-2)

7 Sec. 110-2. Pretrial release.

8 (a) All persons charged with an offense shall be eligible
9 for pretrial release before conviction. It is presumed that a
10 defendant is entitled to release on personal recognizance, in
11 all cases other than those involving domestic violence or sex
12 offenses, as defined in Section 2 of the Sex Offender
13 Registration Act, in which the victim, at the time of the
14 offense, was under 18 years of age, on the condition that the
15 defendant attend all required court proceedings and the
16 defendant does not commit any criminal offense, and complies
17 with all terms of pretrial release. In cases involving
18 domestic violence or sex offenses, as defined in Section 2 of
19 the Sex Offender Registration Act, in which the victim, at the
20 time of the offense, was under 18 years of age, the presumption
21 is that the defendant is to be detained, unless the judge makes
22 a finding that the defendant is not a threat to the alleged
23 victim, witnesses, or community. Upon this finding, the

1 defendant is entitled to be released on personal recognizance
2 on the condition that the defendant attend all required court
3 proceedings and the defendant does not commit any criminal
4 offense and complies with all terms of pretrial release,
5 including, but not limited to, orders of protection under both
6 Section 112A-4 of this Code and Section 214 of the Illinois
7 Domestic Violence Act of 1986, all civil no contact orders,
8 and all stalking no contact orders. Pretrial release may be
9 denied only if a person is charged with an offense listed in
10 Section 110-6.1 and after the court has held a hearing under
11 Section 110-6.1, and in a manner consistent with subsections
12 (b), (c), and (d) of this Section.

13 (b) At all pretrial hearings, the prosecution shall have
14 the burden to prove by clear and convincing evidence that any
15 condition of release is necessary.

16 (c) When it is alleged that pretrial release should be
17 denied to a person upon the grounds that the person presents a
18 real and present threat to the safety of any person or persons
19 or the community, based on the specific articulable facts of
20 the case, the burden of proof of such allegations shall be upon
21 the State. In cases involving domestic violence or sex
22 offenses, as defined in Section 2 of the Sex Offender
23 Registration Act, in which the victim, at the time of the
24 offense, was under 18 years of age, it is presumed that the
25 defendant is a danger to the victim, witness, or community,
26 unless the judge finds based on the agreement of the parties or

1 specific articulable facts that the defendant is not a present
2 danger to the people.

3 (d) When it is alleged that pretrial release should be
4 denied to a person charged with stalking or aggravated
5 stalking upon the grounds set forth in Section 110-6.3, the
6 burden of proof of those allegations shall be upon the State.

7 (e) This Section shall be liberally construed to
8 effectuate the purpose of relying on pretrial release by
9 nonmonetary means to reasonably ensure an eligible person's
10 appearance in court, the protection of the safety of any other
11 person or the community, that the person will not attempt or
12 obstruct the criminal justice process, and the person's
13 compliance with all conditions of release, while authorizing
14 the court, upon motion of a prosecutor, to order pretrial
15 detention of the person under Section 110-6.1 when it finds
16 clear and convincing evidence that no condition or combination
17 of conditions can reasonably ensure the effectuation of these
18 goals.

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

20 (725 ILCS 5/110-6.1) (from Ch. 38, par. 110-6.1)

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

22 (a) Upon verified petition by the State, the court shall
23 hold a hearing and may deny a defendant pretrial release only
24 if:

25 (1) the defendant is charged with a felony offense

1 other than a forcible felony for which, based on the
2 charge or the defendant's criminal history, a sentence of
3 imprisonment, without probation, periodic imprisonment, or
4 conditional discharge, is required by law upon conviction,
5 and it is alleged that the defendant's pretrial release
6 poses a real and present threat to the safety of any person
7 or persons or the community, based on the specific
8 articulable facts of the case;

9 (1.5) the defendant's pretrial release poses a real
10 and present threat to the safety of any person or persons
11 or the community, based on the specific articulable facts
12 of the case, and the defendant is charged with a forcible
13 felony, which as used in this Section, means treason,
14 first degree murder, second degree murder, predatory
15 criminal sexual assault of a child, aggravated criminal
16 sexual assault, criminal sexual assault, armed robbery,
17 aggravated robbery, robbery, burglary where there is use
18 of force against another person, residential burglary,
19 home invasion, vehicular invasion, aggravated arson,
20 arson, aggravated kidnaping, kidnaping, aggravated battery
21 resulting in great bodily harm or permanent disability or
22 disfigurement, or any other felony which involves the
23 threat of or infliction of great bodily harm or permanent
24 disability or disfigurement;

25 (2) the defendant is charged with stalking or
26 aggravated stalking, and it is alleged that the

1 defendant's pre-trial release poses a real and present
2 threat to the safety of a victim of the alleged offense,
3 and denial of release is necessary to prevent fulfillment
4 of the threat upon which the charge is based;

5 (3) the defendant is charged with a violation of an
6 order of protection issued under Section 112A-14 of this
7 Code or Section 214 of the Illinois Domestic Violence Act
8 of 1986, a stalking no contact order under Section 80 of
9 the Stalking No Contact Order Act, or ~~of~~ a civil no contact
10 order under Section 213 of the Civil No Contact Order Act,
11 and it is alleged that the defendant's pretrial release
12 poses a real and present threat to the safety of any person
13 or persons or the community, based on the specific
14 articulable facts of the case;

15 (4) the defendant is charged with domestic battery or
16 aggravated domestic battery under Section 12-3.2 or 12-3.3
17 of the Criminal Code of 2012 or a sex offense, as defined
18 in Section 2 of the Sex Offender Registration Act, in
19 which the victim, at the time of the offense, was under 18
20 years of age and the judge cannot make a finding that the
21 ~~it is alleged that the~~ defendant's pretrial release does
22 not pose ~~poses~~ a real and present threat to the safety of
23 the victim, the victim's family, or society ~~any person or~~
24 ~~persons or the community,~~ based on the specific
25 articulable facts of the case;

26 (5) the defendant is charged with any offense under

1 Article 11 of the Criminal Code of 2012, except for
2 Sections 11-14, 11-14.1, 11-18, 11-20, 11-30, 11-35,
3 11-40, and 11-45 of the Criminal Code of 2012, or similar
4 provisions of the Criminal Code of 1961 and it is alleged
5 that the defendant's pretrial release poses a real and
6 present threat to the safety of any person or persons or
7 the community, based on the specific articulable facts of
8 the case;

9 (6) the defendant is charged with any of the following
10 offenses under the Criminal Code of 2012, and it is
11 alleged that the defendant's pretrial release poses a real
12 and present threat to the safety of any person or persons
13 or the community, based on the specific articulable facts
14 of the case:

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

17 (B) Section 24-1.2-5 ~~24-2.5~~ (aggravated discharge
18 of a machine gun or a firearm equipped with a device
19 designed or used ~~use~~ for silencing the report of a
20 firearm);

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

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

25 (E) Section 24-2.2 (manufacture, sale, l or transfer
26 of bullets or shells represented to be armor piercing

1 bullets, dragon's breath shotgun shells, bolo shells,
2 or flechette shells);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (6.5) the defendant is charged with any of the
11 following offenses, and it is alleged that the defendant's
12 pretrial release poses a real and present threat to the
13 safety of any person or persons or the community, based on
14 the specific articulable facts of the case:

15 (A) Felony violations of Sections 3.01, 3.02, or
16 3.03 of the Humane Care for Animals Act (cruel
17 treatment, aggravated cruelty, and animal torture);

18 (B) Subdivision (d)(1)(B) of Section 11-501 of the
19 Illinois Vehicle Code (aggravated driving under the
20 influence while operating a school bus with
21 passengers);

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

25 (D) Subdivision (d)(1)(D) of Section 11-501 of the
26 Illinois Vehicle Code (aggravated driving under the

1 influence after a previous reckless homicide
2 conviction);

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

6 (F) Subdivision (d) (1) (J) of Section 11-501 of the
7 Illinois Vehicle Code (aggravated driving under the
8 influence that resulted in bodily harm to a child
9 under the age of 16);

10 (7) the defendant is charged with an attempt to commit
11 any charge listed in paragraphs (1) through (6.5), and it
12 is alleged that the defendant's pretrial release poses a
13 real and present threat to the safety of any person or
14 persons or the community, based on the specific
15 articulable facts of the case; or

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

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

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

21 (b) If the charged offense is a felony, as part of the
22 detention hearing, the court shall determine whether there is
23 probable cause the defendant has committed an offense, unless
24 a hearing pursuant to Section 109-3 of this Code has already
25 been held or a grand jury has returned a true bill of
26 indictment against the defendant. If there is a finding of no

1 probable cause, the defendant shall be released. No such
2 finding is necessary if the defendant is charged with a
3 misdemeanor.

4 (c) Timing of petition.

5 (1) A petition may be filed without prior notice to
6 the defendant at the first appearance before a judge, or
7 within the 21 calendar days, except as provided in Section
8 110-6, after arrest and release of the defendant upon
9 reasonable notice to defendant; provided that while such
10 petition is pending before the court, the defendant if
11 previously released shall not be detained.

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

24 (d) Contents of petition.

25 (1) The petition shall be verified by the State and
26 shall state the grounds upon which it contends the

1 defendant should be denied pretrial release, including the
2 real and present threat to the safety of any person or
3 persons or the community, based on the specific
4 articulable facts or flight risk, as appropriate.

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

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

13 (1) the proof is evident or the presumption great that
14 the defendant has committed an offense listed in
15 subsection (a), and

16 (2) for offenses listed in paragraphs (1) through (7)
17 of subsection (a), the defendant poses a real and present
18 threat to the safety of any person or persons or the
19 community, based on the specific articulable facts of the
20 case, by conduct which may include, but is not limited to,
21 a forcible felony, the obstruction of justice,
22 intimidation, injury, or abuse as defined by paragraph (1)
23 of Section 103 of the Illinois Domestic Violence Act of
24 1986, and

25 (3) no condition or combination of conditions set
26 forth in subsection (b) of Section 110-10 of this Article

1 can mitigate (i) the real and present threat to the safety
2 of any person or persons or the community, based on the
3 specific articulable facts of the case, for offenses
4 listed in paragraphs (1) through (7) of subsection (a), or
5 (ii) the defendant's willful flight for offenses listed in
6 paragraph (8) of subsection (a), and

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

16 (f) Conduct of the hearings.

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

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

26 (3) The defendant has the right to be represented by

1 counsel, and if he or she is indigent, to have counsel
2 appointed for him or her. The defendant shall have the
3 opportunity to testify, to present witnesses on his or her
4 own behalf, and to cross-examine any witnesses that are
5 called by the State. Defense counsel shall be given
6 adequate opportunity to confer with the defendant before
7 any hearing at which conditions of release or the
8 detention of the defendant are to be considered, with an
9 accommodation for a physical condition made to facilitate
10 attorney/client consultation. If defense counsel needs to
11 confer or consult with the defendant during any hearing
12 conducted via a 2-way ~~two-way~~ audio-visual communication
13 system, such consultation shall not be recorded and shall
14 be undertaken consistent with constitutional protections.

15 (3.5) A hearing at which pretrial release may be
16 denied must be conducted in person (and not by way of 2-way
17 ~~two-way~~ audio visual communication) unless the accused
18 waives the right to be present physically in court, the
19 court determines that the physical health and safety of
20 any person necessary to the proceedings would be
21 endangered by appearing in court, or the chief judge of
22 the circuit orders use of that system due to operational
23 challenges in conducting the hearing in person. Such
24 operational challenges must be documented and approved by
25 the chief judge of the circuit, and a plan to address the
26 challenges through reasonable efforts must be presented

1 and approved by the Administrative Office of the Illinois
2 Courts every 6 months.

3 (4) If the defense seeks to compel the complaining
4 witness to testify as a witness in its favor, it shall
5 petition the court for permission. When the ends of
6 justice so require, the court may exercise its discretion
7 and compel the appearance of a complaining witness. The
8 court shall state on the record reasons for granting a
9 defense request to compel the presence of a complaining
10 witness only on the issue of the defendant's pretrial
11 detention. In making a determination under this Section,
12 the court shall state on the record the reason for
13 granting a defense request to compel the presence of a
14 complaining witness, and only grant the request if the
15 court finds by clear and convincing evidence that the
16 defendant will be materially prejudiced if the complaining
17 witness does not appear. Cross-examination of a
18 complaining witness at the pretrial detention hearing for
19 the purpose of impeaching the witness' credibility is
20 insufficient reason to compel the presence of the witness.
21 In deciding whether to compel the appearance of a
22 complaining witness, the court shall be considerate of the
23 emotional and physical well-being of the witness. The
24 pre-trial detention hearing is not to be used for purposes
25 of discovery, and the post arraignment rules of discovery
26 do not apply. The State shall tender to the defendant,

1 prior to the hearing, copies, if any, of the defendant's
2 criminal history, if available, and any written or
3 recorded statements and the substance of any oral
4 statements made by any person, if in the State's
5 Attorney's possession at the time of the hearing.

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

15 (6) The defendant may not move to suppress evidence or
16 a confession, however, evidence that proof of the charged
17 crime may have been the result of an unlawful search or
18 seizure, or both, or through improper interrogation, is
19 relevant in assessing the weight of the evidence against
20 the defendant.

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

26 (g) Factors to be considered in making a determination of

1 dangerousness. The court may, in determining whether the
2 defendant poses a real and present threat to the safety of any
3 person or persons or the community, based on the specific
4 articulable facts of the case, consider, but shall not be
5 limited to, evidence or testimony concerning:

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

9 (2) The history and characteristics of the defendant
10 including:

11 (A) Any evidence of the defendant's prior criminal
12 history indicative of violent, abusive, or assaultive
13 behavior, or lack of such behavior. Such evidence may
14 include testimony or documents received in juvenile
15 proceedings, criminal, quasi-criminal, civil
16 commitment, domestic relations, or other proceedings.

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

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

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

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

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

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

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

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

17 (h) Detention order. The court shall, in any order for
18 detention:

19 (1) make a written finding summarizing the court's
20 reasons for concluding that the defendant should be denied
21 pretrial release, including why less restrictive
22 conditions would not avoid a real and present threat to
23 the safety of any person or persons or the community,
24 based on the specific articulable facts of the case, or
25 prevent the defendant's willful flight from prosecution;

26 (2) direct that the defendant be committed to the

1 custody of the sheriff for confinement in the county jail
2 pending trial;

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

7 (4) direct that the sheriff deliver the defendant as
8 required for appearances in connection with court
9 proceedings.

10 (i) Detention. If the court enters an order for the
11 detention of the defendant pursuant to subsection (e) of this
12 Section, the defendant shall be brought to trial on the
13 offense for which he is detained within 90 days after the date
14 on which the order for detention was entered. If the defendant
15 is not brought to trial within the 90-day period required by
16 the preceding sentence, he shall not be denied pretrial
17 release. In computing the 90-day period, the court shall omit
18 any period of delay resulting from a continuance granted at
19 the request of the defendant and any period of delay resulting
20 from a continuance granted at the request of the State with
21 good cause shown pursuant to Section 103-5.

22 (i-5) At each subsequent appearance of the defendant
23 before the court, the judge must find that continued detention
24 is necessary to avoid a real and present threat to the safety
25 of any person or persons or the community, based on the
26 specific articulable facts of the case, or to prevent the

1 defendant's willful flight from prosecution.

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

5 (k) Appeal. The State may appeal any order entered under
6 this Section denying any motion for denial of pretrial
7 release.

8 (l) Presumption of innocence. Nothing in this Section
9 shall be construed as modifying or limiting in any way the
10 defendant's presumption of innocence in further criminal
11 proceedings.

12 (m) Interest of victims.

13 (1) Crime victims shall be given notice by the State's
14 Attorney's office of this hearing as required in paragraph
15 (1) of subsection (b) of Section 4.5 of the Rights of Crime
16 Victims and Witnesses Act and shall be informed of their
17 opportunity at this hearing to obtain a protective order.

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

22 (Source: P.A. 102-1104, eff. 1-1-23; 103-822, eff. 1-1-25;
23 revised 10-23-24.)