



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB4275

Introduced 1/14/2026, by Rep. Michael J. Coffey, Jr. and Wayne A. Rosenthal

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-6.1

from Ch. 38, par. 110-6.1

Amends the Code of Criminal Procedure of 1963. Provides that upon verified petition by the State, the court shall hold a hearing and may deny a defendant pretrial release if: (1) the defendant is charged with a felony offense (rather than specified felonies) 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; (2) the defendant is charged with a felony offense (rather than specific felonies) and has a high likelihood of willful flight to avoid prosecution; or (3) the defendant has been convicted of 2 or more of the same felonies or misdemeanors and either: (i) 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; or (ii) the defendant has a high likelihood of willful flight to avoid prosecution. 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 driving under the influence, 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. Changes the State's burden of proof in a pretrial detention hearing seeking the defendant's detention from clear and convincing evidence to a preponderance of the evidence.

LRB104 16791 RLC 30200 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 Section 110-6.1 as follows:

6 (725 ILCS 5/110-6.1) (from Ch. 38, par. 110-6.1)

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

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

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

20 (1.5) (blank); ~~the defendant's pretrial release poses~~  
21 ~~a real and present threat to the safety of any person or~~  
22 ~~persons or the community, based on the specific~~  
23 ~~articulable facts of the case, and the defendant is~~

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

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

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

1 poses a real and present threat to the safety of any person  
2 or persons or the community, based on the specific  
3 articulable facts of the case;

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

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

20 (6) the defendant is charged with a violation of  
21 Section 11-501 of the Illinois Vehicle Code (driving under  
22 the influence) ~~any of the following offenses under the~~  
23 ~~Criminal Code of 2012,~~ and it is alleged that the  
24 defendant's pretrial release poses a real and present  
25 threat to the safety of any person or persons or the  
26 community, based on the specific articulable facts of the

1 case; ÷

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

4 ~~(B) Section 24-1.2-5 (aggravated discharge of a~~  
5 ~~machine gun or a firearm equipped with a device~~  
6 ~~designed or used for silencing the report of a~~  
7 ~~firearm);~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 ~~(U) Section 10-3.1 (aggravated unlawful~~  
18 ~~restraint);~~

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

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

23 (6.5) (blank); ~~the defendant is charged with any of~~  
24 ~~the following offenses, and it is alleged that the~~  
25 ~~defendant's pretrial release poses a real and present~~  
26 ~~threat to the safety of any person or persons or the~~

1 ~~community, based on the specific articulable facts of the~~  
2 ~~case:~~

3 ~~(A) Felony violations of Sections 3.01, 3.02, or~~  
4 ~~3.03 of the Humane Care for Animals Act (cruel~~  
5 ~~treatment, aggravated cruelty, and animal torture);~~

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

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

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

17 ~~(E) Subdivision (d) (1) (F) of Section 11-501 of the~~  
18 ~~Illinois Vehicle Code (aggravated driving under the~~  
19 ~~influence leading to death); or~~

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

24 (7) the defendant is charged with an attempt to commit  
25 any charge listed in paragraphs (1) through (5) ~~(6.5)~~, and  
26 it is alleged that the defendant's pretrial release poses

1 a real and present threat to the safety of any person or  
2 persons or the community, based on the specific  
3 articulable facts of the case; or

4 (8) the person has a high likelihood of willful flight  
5 to avoid prosecution and is charged with a felony; or

6 (9) the defendant has been convicted of 2 or more of  
7 the same felonies or misdemeanors and either:

8 (A) it is alleged that the defendant's pretrial  
9 release poses 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

12 (B) the defendant has a high likelihood of willful  
13 flight to avoid prosecution. ÷

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

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

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

26 (c) Timing of petition.

1           (1) A petition may be filed without prior notice to  
2 the defendant at the first appearance before a judge, or  
3 within the 21 calendar days, except as provided in Section  
4 110-6, after arrest and release of the defendant upon  
5 reasonable notice to defendant; provided that while such  
6 petition is pending before the court, the defendant if  
7 previously released shall not be detained.

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

20           (d) Contents of petition.

21           (1) The petition shall be verified by the State and  
22 shall state the grounds upon which it contends the  
23 defendant should be denied pretrial release, including the  
24 real and present threat to the safety of any person or  
25 persons or the community, based on the specific  
26 articulable facts or flight risk, as appropriate.

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

6           (e) Eligibility: All defendants shall be presumed eligible  
7 for pretrial release, and the State shall bear the burden of  
8 proving by a preponderance of the ~~clear and convincing~~  
9 evidence that:

10           (1) the proof is evident or the presumption great that  
11 the defendant has committed an offense listed in  
12 subsection (a), and

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

22           (3) no condition or combination of conditions set  
23 forth in subsection (b) of Section 110-10 of this Article  
24 can mitigate (i) the 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, for offenses

1 listed in paragraphs (1) through (7) of subsection (a), or  
2 (ii) the defendant's willful flight for offenses listed in  
3 paragraph (8) of subsection (a), and

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

13 (f) Conduct of the hearings.

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

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

23 (3) The defendant has the right to be represented by  
24 counsel, and if he or she is indigent, to have counsel  
25 appointed for him or her. The defendant shall have the  
26 opportunity to testify, to present witnesses on his or her

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

12 (3.5) A hearing at which pretrial release may be  
13 denied must be conducted in person (and not by way of 2-way  
14 audio visual communication) unless the accused waives the  
15 right to be present physically in court, the court  
16 determines that the physical health and safety of any  
17 person necessary to the proceedings would be endangered by  
18 appearing in court, or the chief judge of the circuit  
19 orders use of that system due to operational challenges in  
20 conducting the hearing in person. Such operational  
21 challenges must be documented and approved by the chief  
22 judge of the circuit, and a plan to address the challenges  
23 through reasonable efforts must be presented and approved  
24 by the Administrative Office of the Illinois Courts every  
25 6 months.

26 (4) If the defense seeks to compel the complaining

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

1 statements made by any person, if in the State's  
2 Attorney's possession at the time of the hearing.

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

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

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

23 (g) Factors to be considered in making a determination of  
24 dangerousness. The court may, in determining whether the  
25 defendant poses a real and present threat to the safety of any  
26 person or persons or the community, based on the specific

1 articulable facts of the case, consider, but shall not be  
2 limited to, evidence or testimony concerning:

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

6 (2) The history and characteristics of the defendant  
7 including:

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

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

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

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

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

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

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

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

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

14           (h) Detention order. The court shall, in any order for  
15 detention:

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

23           (2) direct that the defendant be committed to the  
24 custody of the sheriff for confinement in the county jail  
25 pending trial;

26           (3) direct that the defendant be given a reasonable

1 opportunity for private consultation with counsel, and for  
2 communication with others of his or her choice by  
3 visitation, mail and telephone; and

4 (4) direct that the sheriff deliver the defendant as  
5 required for appearances in connection with court  
6 proceedings.

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

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

25 (j) Rights of the defendant. The defendant shall be  
26 entitled to appeal any order entered under this Section

1 denying his or her pretrial release.

2 (k) Appeal. The State may appeal any order entered under  
3 this Section denying any motion for denial of pretrial  
4 release.

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

9 (m) Interest of victims.

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

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

19 (Source: P.A. 103-822, eff. 1-1-25; 104-417, eff. 8-15-25.)