



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB4899

by Rep. John M. Cabello

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 the defendant is charged with stalking or aggravated stalking, and it is alleged that the defendant's pretrial release poses a real and present threat to the safety of a victim of the alleged offense, based on the specific articulable facts of the case (rather than denial of release is necessary to prevent fulfillment of the threat upon which the charge is based).

LRB104 17021 RLC 30436 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) the defendant's pretrial release poses a real
21 and present threat to the safety of any person or persons
22 or the community, based on the specific articulable facts
23 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 pretrial ~~pre-trial~~ release poses a real and
16 present threat to the safety of a victim of the alleged
17 offense, based on the specific articulable facts of the
18 case ~~and denial of release is necessary to prevent~~
19 ~~fulfillment 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 domestic battery or
5 aggravated domestic battery under Section 12-3.2 or 12-3.3
6 of the Criminal Code of 2012 and it is alleged that the
7 defendant's pretrial release poses a real and present
8 threat to the safety of any person or persons or the
9 community, based on the specific articulable facts of the
10 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 any of the following
21 offenses under the Criminal Code of 2012, and it is
22 alleged that 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:

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

1 firearm);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (6.5) the defendant is charged with any of the
22 following offenses, and it is alleged that the defendant's
23 pretrial release poses a real and present threat to the
24 safety of any person or persons or the community, based on
25 the specific articulable facts of the case:

26 (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

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

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

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

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

15 (c) Timing of petition.

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

23 (2) Upon filing, the court shall immediately hold a
24 hearing on the petition unless a continuance is requested.
25 If a continuance is requested and granted, the hearing
26 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

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

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

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

1 (f) Conduct of the hearings.

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

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

11 (3) The defendant has the right to be represented by
12 counsel, and if he or she is indigent, to have counsel
13 appointed for him or her. The defendant shall have the
14 opportunity to testify, to present witnesses on his or her
15 own behalf, and to cross-examine any witnesses that are
16 called by the State. Defense counsel shall be given
17 adequate opportunity to confer with the defendant before
18 any hearing at which conditions of release or the
19 detention of the defendant are to be considered, with an
20 accommodation for a physical condition made to facilitate
21 attorney/client consultation. If defense counsel needs to
22 confer or consult with the defendant during any hearing
23 conducted via a 2-way audio-visual communication system,
24 such consultation shall not be recorded and shall be
25 undertaken consistent with constitutional protections.

26 (3.5) A hearing at which pretrial release may be

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

1 commitment, domestic relations, or other proceedings.

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

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

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

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

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

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

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

23 (9) Any other factors, including those listed in
24 Section 110-5 of this Article deemed by the court to have a
25 reasonable bearing upon the defendant's propensity or
26 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
26 (1) of subsection (b) of Section 4.5 of the Rights of Crime

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

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

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