



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB4902

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 if the court enters an order for the detention of the defendant pursuant to the denial of pretrial release provisions of the Code, the defendant shall be brought to trial on the offense in accordance with the speedy trial provisions of the Code (rather than brought to trial for the offense for which he is detained within 90 days after the date on which the order for detention was entered). Deletes the provision that if the defendant is not brought to trial within the 90-day period, he or she shall not be denied pretrial release.

LRB104 17023 RLC 30438 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 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 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;

19 (6) the defendant is charged with any of the following
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);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (6.5) the defendant is charged with any of the
21 following offenses, and it is alleged that the defendant's
22 pretrial release poses a real and present threat to the
23 safety of any person or persons or the community, based on
24 the specific articulable facts of the case:

25 (A) Felony violations of Sections 3.01, 3.02, or
26 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
14 Illinois Vehicle Code (aggravated driving under the
15 influence leading to death); or

16 (F) Subdivision (d) (1) (J) of Section 11-501 of the
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 (b) If the charged offense is a felony, as part of the
6 detention hearing, the court shall determine whether there is
7 probable cause the defendant has committed an offense, unless
8 a hearing pursuant to Section 109-3 of this Code has already
9 been held or a grand jury has returned a true bill of
10 indictment against the defendant. If there is a finding of no
11 probable cause, the defendant shall be released. No such
12 finding is necessary if the defendant is charged with a
13 misdemeanor.

14 (c) Timing of petition.

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

22 (2) Upon filing, the court shall immediately hold a
23 hearing on the petition unless a continuance is requested.
24 If a continuance is requested and granted, the hearing
25 shall be held within 48 hours of the defendant's first
26 appearance if the defendant is charged with first degree

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

8 (d) Contents of petition.

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

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

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

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

26 (2) for offenses listed in paragraphs (1) through (7)

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

9 (3) no condition or combination of conditions set
10 forth in subsection (b) of Section 110-10 of this Article
11 can mitigate (i) the 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, for offenses
14 listed in paragraphs (1) through (7) of subsection (a), or
15 (ii) the defendant's willful flight for offenses listed in
16 paragraph (8) of subsection (a), and

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

26 (f) Conduct of the hearings.

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

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

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

25 (3.5) A hearing at which pretrial release may be
26 denied must be conducted in person (and not by way of 2-way

1 audio visual communication) unless the accused waives the
2 right to be present physically in court, the court
3 determines that the physical health and safety of any
4 person necessary to the proceedings would be endangered by
5 appearing in court, or the chief judge of the circuit
6 orders use of that system due to operational challenges in
7 conducting the hearing in person. Such operational
8 challenges must be documented and approved by the chief
9 judge of the circuit, and a plan to address the challenges
10 through reasonable efforts must be presented and approved
11 by the Administrative Office of the Illinois Courts every
12 6 months.

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

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

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

25 (6) The defendant may not move to suppress evidence or
26 a confession, however, evidence that proof of the charged

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~be denied pretrial release. In computing the 90-day period,~~
2 ~~the court shall omit any period of delay resulting from a~~
3 ~~continuance granted at the request of the defendant and any~~
4 ~~period of delay resulting from a continuance granted at the~~
5 ~~request of the State with good cause shown pursuant to Section~~
6 103-5 (speedy trial).

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.)