SB1293

104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1293

Introduced 1/28/2025, by Sen. Laura Ellman

SYNOPSIS AS INTRODUCED:

725 ILCS 5/107-9	from Ch. 38, par. 107-9
725 ILCS 5/109-2	from Ch. 38, par. 109-2

Amends the Code of Criminal Procedure of 1963. Provides that the warrant of arrest or summons shall command that the person against whom the complaint was made to be arrested and brought before the court issuing the warrant at a certain day, time, and courtroom number, or the nearest or most accessible court in the same county, or appear before the court at a certain time and place. Provides that if a person has a warrant in another county for an offense and the county where the warrant is outstanding fails to transport the person to the county where the warrant was issued for a hearing no later than 5 calendar days after the end of any detention issued on the charge in the arresting county, the county where the warrant is outstanding shall mark the warrant as served (rather than quash the warrant) and order the person released on the case for which the warrant was issued. Provides that if the issuing county fails to take any action within 5 calendar days, the defendant shall be released from custody on the warrant, and the circuit judge or associate circuit judge in the county of arrest shall set conditions of release and shall admit the defendant to pretrial release and shall schedule for his or her appearance before the court named in the warrant based upon the court day, time, and courtroom number listed on the warrant.

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A BILL FOR

AN ACT concerning criminal law.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Code of Criminal Procedure of 1963 is amended by changing Sections 107-9 and 109-2 as follows:

(725 ILCS 5/107-9) (from Ch. 38, par. 107-9)

Sec. 107-9. Issuance of arrest warrant upon complaint.

(a) When a complaint is presented to a court charging that an offense has been committed, it shall examine upon oath or affirmation the complainant or any witnesses.

(b) The complaint shall be in writing and shall:

(1) State the name of the accused if known, and if not known the accused may be designated by any name or description by which he can be identified with reasonable certainty;

(2) State the offense with which the accused is charged;

(3) State the time and place of the offense as definitely as can be done by the complainant; and

(4) Be subscribed and sworn to by the complainant.

(b-5) If an arrest warrant or summons is sought and the request is made by electronic means that has a simultaneous video and audio transmission between the requester and a

judge, the judge may issue an arrest warrant or summons based upon a sworn complaint or sworn testimony communicated in the transmission.

(c) A warrant or summons may be issued by the court for the arrest or appearance of the person complained against if it appears from the contents of the complaint and the examination of the complainant or other witnesses, if any, that the person against whom the complaint was made has committed an offense.

(d) The warrant of arrest or summons shall:

(1) Be in writing;

(2) Specify the name, sex and birth date of the person to be arrested or summoned or, if his name, sex or birth date is unknown, shall designate such person by any name or description by which the person can be identified with reasonable certainty;

(3) Set forth the nature of the offense;

(4) State the date when issued and the municipality or county where issued;

(5) Be signed by the judge of the court with the title of the judge's office; and

(6) Command that the person against whom the complaint was made to be arrested and brought before the court issuing the warrant <u>at a certain day, time, and courtroom number,</u> or the nearest or most accessible court in the same county, or appear before the court at a certain time and place;

(7) Specify the conditions of pretrial release, if any; and

(8) Specify any geographical limitation placed on the execution of the warrant, if any, but such limitation shall not be expressed in mileage.

(e) The summons may be served in the same manner as the summons in a civil action, except that a police officer may serve a summons for a violation of an ordinance occurring within the municipality of the police officer.

(f) If the person summoned fails to appear by the date required or cannot be located to serve the summons, a warrant may be issued by the court for the arrest of the person complained against.

(g) A warrant of arrest issued under this Section shall incorporate the information included in the summons, and shall comply with the following:

(1) The arrest warrant shall specify any geographic limitation placed on the execution of the warrant, but such limitation shall not be expressed in mileage.

(2) The arrest warrant shall be directed to all peace officers in the State. It shall be executed by the peace officer, or by a private person specially named therein, at any location within the geographic limitation for execution placed on the warrant. If no geographic limitation is placed on the warrant, then it may be executed anywhere in the State.

(h) The arrest warrant or summons may be issued electronically or electromagnetically by use of electronic mail or a facsimile transmission machine and any such arrest warrant or summons shall have the same validity as a written arrest warrant or summons.

(Source: P.A. 101-239, eff. 1-1-20; 101-652, eff. 1-1-23; 102-1104, eff. 1-1-23.)

(725 ILCS 5/109-2) (from Ch. 38, par. 109-2)

Sec. 109-2. Person arrested in another county.

(a) Any person arrested in a county other than the one in which a warrant for his arrest was issued shall be taken without unnecessary delay before the nearest and most accessible judge in the county where the arrest was made or, if no additional delay is created, before the nearest and most accessible judge in the county from which the warrant was issued. The judge may hold a hearing to determine if the defendant is the same person as named in the warrant.

(b) Notwithstanding the provisions of subsection (a), any person arrested in a county other than the one in which a warrant for his arrest was issued, may waive the right to be taken before a judge in the county where the arrest was made. If a person so arrested waives such right, the arresting agency shall surrender such person to a law enforcement agency of the county that issued the warrant without unnecessary delay. The provisions of Section 109-1 shall then apply to the

person so arrested.

(c) If a person is taken before a judge in any county and a warrant for arrest issued by another Illinois county exists for that person, the court in the arresting county shall hold for that person a detention hearing under Section 110-6.1, or other hearing under Section 110-5 or Section 110-6.

(d) After the court in the arresting county has determined whether the person shall be released or detained on the arresting offense, the court shall then order the sheriff to immediately contact the sheriff in any county where any warrant is outstanding and notify them of the arrest of the individual.

(e) If a person has a warrant in another county for an offense, then, no later than 5 calendar days after the end of any detention issued on the charge in the arresting county, the county where the warrant is outstanding shall do one of the following:

(1) transport the person to the county where the warrant was issued for a hearing under Section 110-6 or 110-6.1 in the matter for which the warrant was issued; or

(2) mark ~~quash~~ the warrant as served and order the person released on the case for which the warrant was issued only when the county that issued the warrant fails to transport the defendant in the timeline as proscribed.

(f) If the issuing county fails to take any action under subsection (e) within 5 calendar days, the defendant shall be

released from custody on the warrant, and the circuit judge or associate circuit judge in the county of arrest shall set conditions of release under Section 110-5 and shall admit the defendant to pretrial release and shall schedule for his or her appearance before the court named in the warrant based upon the court day, time, and courtroom number listed on the warrant. Upon releasing the defendant, the circuit judge or associate circuit judge shall certify such a fact on the warrant and deliver the warrant and the acknowledgment by the defendant of his or her receiving the conditions of pretrial release to the officer having charge of the defendant from arrest and without delay deliver such warrant and such acknowledgment by the defendant of his or her receiving the conditions to the court before which the defendant is required to appear.

(g) If a person has a warrant in another county, in lieu of transporting the person to the issuing county as outlined in subsection (e), the issuing county may hold the hearing by way of a two-way audio-visual communication system if the accused waives the right to be physically present in court, the court determines that the physical health and safety of any person necessary to the proceedings would be endangered by appearing in court, or the chief judge of the circuit orders use of that system due to operational challenges in conducting the hearing in person. Such operational challenges must be documented and approved by the chief judge of the circuit, and a plan to

address the challenges through reasonable efforts must be presented and approved by the Administrative Office of the Illinois Courts every 6 months.

(h) If more than 2 Illinois county warrants exist, the judge in the county of arrest shall order that the process described in subsections (d) through (f) occur in each county in whatever order the judge finds most appropriate. Each judge in each subsequent county shall then follow the rules in this Section.

(i) This Section applies only to warrants issued by Illinois state, county, or municipal courts.

(j) When an issuing agency is contacted by an out-of-state agency of a person arrested for any offense, or when an arresting agency is contacted by or contacts an out-of-state issuing agency, the Uniform Criminal Extradition Act shall govern.

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