



Sen. Bill Cunningham

Filed: 4/26/2017

10000SB1980sam003

LRB100 11410 SLF 25506 a

1 AMENDMENT TO SENATE BILL 1980

2 AMENDMENT NO. _____. Amend Senate Bill 1980, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Code of Criminal Procedure of 1963 is
6 amended by changing Sections 110-4 and 110-10 as follows:

7 (725 ILCS 5/110-4) (from Ch. 38, par. 110-4)

8 Sec. 110-4. Bailable Offenses.

9 (a) All persons shall be bailable before conviction, except
10 the following offenses where the proof is evident or the
11 presumption great that the defendant is guilty of the offense:

12 (1) capital offenses;

13 (2) offenses for which a sentence of life imprisonment
14 may be imposed as a consequence of conviction;

15 (3) felony offenses for which a sentence of
16 imprisonment, without conditional and revocable release,

1 shall be imposed by law as a consequence of conviction,
2 where the court after a hearing, determines that the
3 release of the defendant would pose a real and present
4 threat to the physical safety of any person or persons;

5 (4) stalking or aggravated stalking, where the court,
6 after a hearing, determines that the release of the
7 defendant would pose a real and present threat to the
8 physical safety of the alleged victim of the offense and
9 denial of bail is necessary to prevent fulfillment of the
10 threat upon which the charge is based; ~~or~~

11 (5) unlawful use of weapons in violation of item (4) of
12 subsection (a) of Section 24-1 of the Criminal Code of 1961
13 or the Criminal Code of 2012 when that offense occurred in
14 a school or in any conveyance owned, leased, or contracted
15 by a school to transport students to or from school or a
16 school-related activity, or on any public way within 1,000
17 feet of real property comprising any school, a violation of
18 Section 24-1.2, 24-1.2-5, 24-1.6, or 24-1.7 of the Criminal
19 Code of 1961 or the Criminal Code of 2012, or a violation
20 of Section 24-1.1 of the Criminal Code of 1961 or the
21 Criminal Code of 2012 if the defendant has previously been
22 convicted of a forcible felony as defined in Section 2-8 of
23 the Criminal Code of 2012, where the court, after a
24 hearing, determines that the release of the defendant would
25 pose a real and present threat to the physical safety of
26 any person and denial of bail is necessary to prevent

1 fulfillment of that threat; or

2 (6) making a terrorist threat in violation of Section
3 29D-20 of the Criminal Code of 1961 or the Criminal Code of
4 2012 or an attempt to commit the offense of making a
5 terrorist threat, where the court, after a hearing,
6 determines that the release of the defendant would pose a
7 real and present threat to the physical safety of any
8 person and denial of bail is necessary to prevent
9 fulfillment of that threat.

10 (a-5) If bail is set for any offense under this Section
11 including, but not limited to, an offense in paragraph (5) of
12 subsection (a) of this Section, the State's Attorney may
13 request a source of bail hearing under subsection (b-5) of
14 Section 110-5 of this Article.

15 (b) A person seeking release on bail who is charged with a
16 capital offense or an offense for which a sentence of life
17 imprisonment may be imposed shall not be bailable until a
18 hearing is held wherein such person has the burden of
19 demonstrating that the proof of his guilt is not evident and
20 the presumption is not great.

21 (c) Where it is alleged that bail should be denied to a
22 person upon the grounds that the person presents a real and
23 present threat to the physical safety of any person or persons,
24 the burden of proof of such allegations shall be upon the
25 State.

26 (d) When it is alleged that bail should be denied to a

1 person charged with stalking or aggravated stalking upon the
2 grounds set forth in Section 110-6.3 of this Code, the burden
3 of proof of those allegations shall be upon the State.

4 (Source: P.A. 97-1150, eff. 1-25-13.)

5 (725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

6 Sec. 110-10. Conditions of bail bond.

7 (a) If a person is released prior to conviction, either
8 upon payment of bail security or on his or her own
9 recognizance, the conditions of the bail bond shall be that he
10 or she will:

11 (1) Appear to answer the charge in the court having
12 jurisdiction on a day certain and thereafter as ordered by
13 the court until discharged or final order of the court;

14 (2) Submit himself or herself to the orders and process
15 of the court;

16 (3) Not depart this State without leave of the court;

17 (4) Not violate any criminal statute of any
18 jurisdiction;

19 (5) At a time and place designated by the court,
20 surrender all firearms in his or her possession to a law
21 enforcement officer designated by the court to take custody
22 of and impound the firearms and physically surrender his or
23 her Firearm Owner's Identification Card to the clerk of the
24 circuit court when the offense the person has been charged
25 with is a forcible felony, stalking, aggravated stalking,

1 domestic battery, any violation of the Illinois Controlled
2 Substances Act, the Methamphetamine Control and Community
3 Protection Act, or the Cannabis Control Act that is
4 classified as a Class 2 or greater felony, or any felony
5 violation of Article 24 of the Criminal Code of 1961 or the
6 Criminal Code of 2012 not subject to paragraph (5.5) of
7 this Section; the court may, however, forgo the imposition
8 of this condition when the circumstances of the case
9 clearly do not warrant it or when its imposition would be
10 impractical; if the Firearm Owner's Identification Card is
11 confiscated, the clerk of the circuit court shall mail the
12 confiscated card to the Department of ~~Illinois~~ State
13 Police; all legally possessed firearms shall be returned to
14 the person upon the charges being dismissed, or if the
15 person is found not guilty, unless the finding of not
16 guilty is by reason of insanity; ~~and~~

17 (5.5) At a time and place designated by the court,
18 surrender all firearms in his or her possession to a law
19 enforcement officer designated by the court to take custody
20 of and impound the firearms and physically surrender his or
21 her Firearm Owner's Identification Card to the clerk of the
22 circuit court when the offense the person has been charged
23 with is a violation of paragraph (4) of subsection (a) of
24 Section 24-1 of the Criminal Code of 1961 or Criminal Code
25 of 2012, when that offense occurred in a school or in any
26 conveyance owned, leased, or contracted by a school to

1 transport students to or from school or a school-related
2 activity, or on any public way within 1,000 feet of real
3 property comprising any school, a violation of Section
4 24-1.2, 24-1.25, 24-1.6, or 24-4.7 of the Criminal Code of
5 1961 or the Criminal Code of 2012, or a violation of
6 Section 24-1.1 of the Criminal Code of 1961 or the Criminal
7 Code of 2012 if the defendant has previously been convicted
8 of a forcible felony as defined in Section 2-8 of the
9 Criminal Code of 2012; if the Firearm Owner's
10 Identification Card is confiscated, the clerk of the
11 circuit court shall mail the confiscated card to the
12 Department of State Police; all legally possessed firearms
13 shall be returned to the person upon the charges being
14 dismissed, or if the person is found not guilty, unless the
15 finding of not guilty is by reason of insanity; or

16 (6) At a time and place designated by the court, submit
17 to a psychological evaluation when the person has been
18 charged with a violation of item (4) of subsection (a) of
19 Section 24-1 of the Criminal Code of 1961 or the Criminal
20 Code of 2012 and that violation occurred in a school or in
21 any conveyance owned, leased, or contracted by a school to
22 transport students to or from school or a school-related
23 activity, or on any public way within 1,000 feet of real
24 property comprising any school.

25 Psychological evaluations ordered pursuant to this Section
26 shall be completed promptly and made available to the State,

1 the defendant, and the court. As a further condition of bail
2 under these circumstances, the court shall order the defendant
3 to refrain from entering upon the property of the school,
4 including any conveyance owned, leased, or contracted by a
5 school to transport students to or from school or a
6 school-related activity, or on any public way within 1,000 feet
7 of real property comprising any school. Upon receipt of the
8 psychological evaluation, either the State or the defendant may
9 request a change in the conditions of bail, pursuant to Section
10 110-6 of this Code. The court may change the conditions of bail
11 to include a requirement that the defendant follow the
12 recommendations of the psychological evaluation, including
13 undergoing psychiatric treatment. The conclusions of the
14 psychological evaluation and any statements elicited from the
15 defendant during its administration are not admissible as
16 evidence of guilt during the course of any trial on the charged
17 offense, unless the defendant places his or her mental
18 competency in issue.

19 (b) The court may impose other conditions, such as the
20 following, if the court finds that such conditions are
21 reasonably necessary to assure the defendant's appearance in
22 court, protect the public from the defendant, or prevent the
23 defendant's unlawful interference with the orderly
24 administration of justice:

25 (1) Report to or appear in person before such person or
26 agency as the court may direct;

1 (2) Refrain from possessing a firearm or other
2 dangerous weapon;

3 (3) Refrain from approaching or communicating with
4 particular persons or classes of persons;

5 (4) Refrain from going to certain described
6 geographical areas or premises;

7 (5) Refrain from engaging in certain activities or
8 indulging in intoxicating liquors or in certain drugs;

9 (6) Undergo treatment for drug addiction or
10 alcoholism;

11 (7) Undergo medical or psychiatric treatment;

12 (8) Work or pursue a course of study or vocational
13 training;

14 (9) Attend or reside in a facility designated by the
15 court;

16 (10) Support his or her dependents;

17 (11) If a minor resides with his or her parents or in a
18 foster home, attend school, attend a non-residential
19 program for youths, and contribute to his or her own
20 support at home or in a foster home;

21 (12) Observe any curfew ordered by the court;

22 (13) Remain in the custody of such designated person or
23 organization agreeing to supervise his release. Such third
24 party custodian shall be responsible for notifying the
25 court if the defendant fails to observe the conditions of
26 release which the custodian has agreed to monitor, and

1 shall be subject to contempt of court for failure so to
2 notify the court;

3 (14) Be placed under direct supervision of the Pretrial
4 Services Agency, Probation Department or Court Services
5 Department in a pretrial bond home supervision capacity
6 with or without the use of an approved electronic
7 monitoring device subject to Article 8A of Chapter V of the
8 Unified Code of Corrections;

9 (14.1) The court shall impose upon a defendant who is
10 charged with any alcohol, cannabis, methamphetamine, or
11 controlled substance violation and is placed under direct
12 supervision of the Pretrial Services Agency, Probation
13 Department or Court Services Department in a pretrial bond
14 home supervision capacity with the use of an approved
15 monitoring device, as a condition of such bail bond, a fee
16 that represents costs incidental to the electronic
17 monitoring for each day of such bail supervision ordered by
18 the court, unless after determining the inability of the
19 defendant to pay the fee, the court assesses a lesser fee
20 or no fee as the case may be. The fee shall be collected by
21 the clerk of the circuit court, except as provided in an
22 administrative order of the Chief Judge of the circuit
23 court. The clerk of the circuit court shall pay all monies
24 collected from this fee to the county treasurer for deposit
25 in the substance abuse services fund under Section 5-1086.1
26 of the Counties Code, except as provided in an

1 administrative order of the Chief Judge of the circuit
2 court.

3 The Chief Judge of the circuit court of the county may
4 by administrative order establish a program for electronic
5 monitoring of offenders with regard to drug-related and
6 alcohol-related offenses, in which a vendor supplies and
7 monitors the operation of the electronic monitoring
8 device, and collects the fees on behalf of the county. The
9 program shall include provisions for indigent offenders
10 and the collection of unpaid fees. The program shall not
11 unduly burden the offender and shall be subject to review
12 by the Chief Judge.

13 The Chief Judge of the circuit court may suspend any
14 additional charges or fees for late payment, interest, or
15 damage to any device;

16 (14.2) The court shall impose upon all defendants,
17 including those defendants subject to paragraph (14.1)
18 above, placed under direct supervision of the Pretrial
19 Services Agency, Probation Department or Court Services
20 Department in a pretrial bond home supervision capacity
21 with the use of an approved monitoring device, as a
22 condition of such bail bond, a fee which shall represent
23 costs incidental to such electronic monitoring for each day
24 of such bail supervision ordered by the court, unless after
25 determining the inability of the defendant to pay the fee,
26 the court assesses a lesser fee or no fee as the case may

1 be. The fee shall be collected by the clerk of the circuit
2 court, except as provided in an administrative order of the
3 Chief Judge of the circuit court. The clerk of the circuit
4 court shall pay all monies collected from this fee to the
5 county treasurer who shall use the monies collected to
6 defray the costs of corrections. The county treasurer shall
7 deposit the fee collected in the county working cash fund
8 under Section 6-27001 or Section 6-29002 of the Counties
9 Code, as the case may be, except as provided in an
10 administrative order of the Chief Judge of the circuit
11 court.

12 The Chief Judge of the circuit court of the county may
13 by administrative order establish a program for electronic
14 monitoring of offenders with regard to drug-related and
15 alcohol-related offenses, in which a vendor supplies and
16 monitors the operation of the electronic monitoring
17 device, and collects the fees on behalf of the county. The
18 program shall include provisions for indigent offenders
19 and the collection of unpaid fees. The program shall not
20 unduly burden the offender and shall be subject to review
21 by the Chief Judge.

22 The Chief Judge of the circuit court may suspend any
23 additional charges or fees for late payment, interest, or
24 damage to any device;

25 (14.3) The Chief Judge of the Judicial Circuit may
26 establish reasonable fees to be paid by a person receiving

1 pretrial services while under supervision of a pretrial
2 services agency, probation department, or court services
3 department. Reasonable fees may be charged for pretrial
4 services including, but not limited to, pretrial
5 supervision, diversion programs, electronic monitoring,
6 victim impact services, drug and alcohol testing, DNA
7 testing, GPS electronic monitoring, assessments and
8 evaluations related to domestic violence and other
9 victims, and victim mediation services. The person
10 receiving pretrial services may be ordered to pay all costs
11 incidental to pretrial services in accordance with his or
12 her ability to pay those costs;

13 (14.4) For persons charged with violating Section
14 11-501 of the Illinois Vehicle Code, refrain from operating
15 a motor vehicle not equipped with an ignition interlock
16 device, as defined in Section 1-129.1 of the Illinois
17 Vehicle Code, pursuant to the rules promulgated by the
18 Secretary of State for the installation of ignition
19 interlock devices. Under this condition the court may allow
20 a defendant who is not self-employed to operate a vehicle
21 owned by the defendant's employer that is not equipped with
22 an ignition interlock device in the course and scope of the
23 defendant's employment;

24 (15) Comply with the terms and conditions of an order
25 of protection issued by the court under the Illinois
26 Domestic Violence Act of 1986 or an order of protection

1 issued by the court of another state, tribe, or United
2 States territory;

3 (16) Under Section 110-6.5 comply with the conditions
4 of the drug testing program; and

5 (17) Such other reasonable conditions as the court may
6 impose.

7 (c) When a person is charged with an offense under Section
8 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14,
9 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the
10 Criminal Code of 2012, involving a victim who is a minor under
11 18 years of age living in the same household with the defendant
12 at the time of the offense, in granting bail or releasing the
13 defendant on his own recognizance, the judge shall impose
14 conditions to restrict the defendant's access to the victim
15 which may include, but are not limited to conditions that he
16 will:

17 1. Vacate the household.

18 2. Make payment of temporary support to his dependents.

19 3. Refrain from contact or communication with the child
20 victim, except as ordered by the court.

21 (d) When a person is charged with a criminal offense and
22 the victim is a family or household member as defined in
23 Article 112A, conditions shall be imposed at the time of the
24 defendant's release on bond that restrict the defendant's
25 access to the victim. Unless provided otherwise by the court,
26 the restrictions shall include requirements that the defendant

1 do the following:

2 (1) refrain from contact or communication with the
3 victim for a minimum period of 72 hours following the
4 defendant's release; and

5 (2) refrain from entering or remaining at the victim's
6 residence for a minimum period of 72 hours following the
7 defendant's release.

8 (e) Local law enforcement agencies shall develop
9 standardized bond forms for use in cases involving family or
10 household members as defined in Article 112A, including
11 specific conditions of bond as provided in subsection (d).
12 Failure of any law enforcement department to develop or use
13 those forms shall in no way limit the applicability and
14 enforcement of subsections (d) and (f).

15 (f) If the defendant is admitted to bail after conviction
16 the conditions of the bail bond shall be that he will, in
17 addition to the conditions set forth in subsections (a) and (b)
18 hereof:

19 (1) Duly prosecute his appeal;

20 (2) Appear at such time and place as the court may
21 direct;

22 (3) Not depart this State without leave of the court;

23 (4) Comply with such other reasonable conditions as the
24 court may impose; and

25 (5) If the judgment is affirmed or the cause reversed
26 and remanded for a new trial, forthwith surrender to the

1 officer from whose custody he was bailed.

2 (g) Upon a finding of guilty for any felony offense, the
3 defendant shall physically surrender, at a time and place
4 designated by the court, any and all firearms in his or her
5 possession and his or her Firearm Owner's Identification Card
6 as a condition of remaining on bond pending sentencing.

7 (Source: P.A. 99-797, eff. 8-12-16.)".