



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4142

Introduced 1/22/2020, by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-6

from Ch. 38, par. 110-6

Amends the Code of Criminal Procedure of 1963. Provides that a person may not be brought before the court for a rehearing on the amount or conditions of bail or release if the person has been convicted of a felony and the offense for which the person is in custody involves the possession of a firearm.

LRB101 15210 RLC 64374 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 as follows:

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

7 Sec. 110-6. Modification of bail or conditions.

8 (a) Upon verified application by the State or the defendant
9 or on its own motion the court before which the proceeding is
10 pending may increase or reduce the amount of bail or may alter
11 the conditions of the bail bond or grant bail where it has been
12 previously revoked or denied. If bail has been previously
13 revoked pursuant to subsection (f) of this Section or if bail
14 has been denied to the defendant pursuant to subsection (e) of
15 Section 110-6.1 or subsection (e) of Section 110-6.3, the
16 defendant shall be required to present a verified application
17 setting forth in detail any new facts not known or obtainable
18 at the time of the previous revocation or denial of bail
19 proceedings. If the court grants bail where it has been
20 previously revoked or denied, the court shall state on the
21 record of the proceedings the findings of facts and conclusion
22 of law upon which such order is based.

23 (a-5) In addition to any other available motion or

1 procedure under this Code, a person in custody solely for a
2 Category B offense due to an inability to post monetary bail
3 shall be brought before the court at the next available court
4 date or 7 calendar days from the date bail was set, whichever
5 is earlier, for a rehearing on the amount or conditions of bail
6 or release pending further court proceedings. The court may
7 reconsider conditions of release for any other person whose
8 inability to post monetary bail is the sole reason for
9 continued incarceration, including a person in custody for a
10 Category A offense or a Category A offense and a Category B
11 offense. The court may deny the rehearing permitted under this
12 subsection (a-5) if the person has failed to appear as required
13 before the court and is incarcerated based on a warrant for
14 failure to appear on the same original criminal offense. A
15 person may not be brought before the court for a rehearing on
16 the amount or conditions of bail or release if the person has
17 been convicted of a felony and the offense for which the person
18 is in custody involves the possession of a firearm.

19 (b) Violation of the conditions of Section 110-10 of this
20 Code or any special conditions of bail as ordered by the court
21 shall constitute grounds for the court to increase the amount
22 of bail, or otherwise alter the conditions of bail, or, where
23 the alleged offense committed on bail is a forcible felony in
24 Illinois or a Class 2 or greater offense under the Illinois
25 Controlled Substances Act, the Cannabis Control Act, or the
26 Methamphetamine Control and Community Protection Act, revoke

1 bail pursuant to the appropriate provisions of subsection (e)
2 of this Section.

3 (c) Reasonable notice of such application by the defendant
4 shall be given to the State.

5 (d) Reasonable notice of such application by the State
6 shall be given to the defendant, except as provided in
7 subsection (e).

8 (e) Upon verified application by the State stating facts or
9 circumstances constituting a violation or a threatened
10 violation of any of the conditions of the bail bond the court
11 may issue a warrant commanding any peace officer to bring the
12 defendant without unnecessary delay before the court for a
13 hearing on the matters set forth in the application. If the
14 actual court before which the proceeding is pending is absent
15 or otherwise unavailable another court may issue a warrant
16 pursuant to this Section. When the defendant is charged with a
17 felony offense and while free on bail is charged with a
18 subsequent felony offense and is the subject of a proceeding
19 set forth in Section 109-1 or 109-3 of this Code, upon the
20 filing of a verified petition by the State alleging a violation
21 of Section 110-10 (a) (4) of this Code, the court shall without
22 prior notice to the defendant, grant leave to file such
23 application and shall order the transfer of the defendant and
24 the application without unnecessary delay to the court before
25 which the previous felony matter is pending for a hearing as
26 provided in subsection (b) or this subsection of this Section.

1 The defendant shall be held without bond pending transfer to
2 and a hearing before such court. At the conclusion of the
3 hearing based on a violation of the conditions of Section
4 110-10 of this Code or any special conditions of bail as
5 ordered by the court the court may enter an order increasing
6 the amount of bail or alter the conditions of bail as deemed
7 appropriate.

8 (f) Where the alleged violation consists of the violation
9 of one or more felony statutes of any jurisdiction which would
10 be a forcible felony in Illinois or a Class 2 or greater
11 offense under the Illinois Controlled Substances Act, the
12 Cannabis Control Act, or the Methamphetamine Control and
13 Community Protection Act and the defendant is on bail for the
14 alleged commission of a felony, or where the defendant is on
15 bail for a felony domestic battery (enhanced pursuant to
16 subsection (b) of Section 12-3.2 of the Criminal Code of 1961
17 or the Criminal Code of 2012), aggravated domestic battery,
18 aggravated battery, unlawful restraint, aggravated unlawful
19 restraint or domestic battery in violation of item (1) of
20 subsection (a) of Section 12-3.2 of the Criminal Code of 1961
21 or the Criminal Code of 2012 against a family or household
22 member as defined in Section 112A-3 of this Code and the
23 violation is an offense of domestic battery against the same
24 victim the court shall, on the motion of the State or its own
25 motion, revoke bail in accordance with the following
26 provisions:

1 (1) The court shall hold the defendant without bail
2 pending the hearing on the alleged breach; however, if the
3 defendant is not admitted to bail the hearing shall be
4 commenced within 10 days from the date the defendant is
5 taken into custody or the defendant may not be held any
6 longer without bail, unless delay is occasioned by the
7 defendant. Where defendant occasions the delay, the
8 running of the 10 day period is temporarily suspended and
9 resumes at the termination of the period of delay. Where
10 defendant occasions the delay with 5 or fewer days
11 remaining in the 10 day period, the court may grant a
12 period of up to 5 additional days to the State for good
13 cause shown. The State, however, shall retain the right to
14 proceed to hearing on the alleged violation at any time,
15 upon reasonable notice to the defendant and the court.

16 (2) At a hearing on the alleged violation the State has
17 the burden of going forward and proving the violation by
18 clear and convincing evidence. The evidence shall be
19 presented in open court with the opportunity to testify, to
20 present witnesses in his behalf, and to cross-examine
21 witnesses if any are called by the State, and
22 representation by counsel and if the defendant is indigent
23 to have counsel appointed for him. The rules of evidence
24 applicable in criminal trials in this State shall not
25 govern the admissibility of evidence at such hearing.
26 Information used by the court in its findings or stated in

1 or offered in connection with hearings for increase or
2 revocation of bail may be by way of proffer based upon
3 reliable information offered by the State or defendant. All
4 evidence shall be admissible if it is relevant and reliable
5 regardless of whether it would be admissible under the
6 rules of evidence applicable at criminal trials. A motion
7 by the defendant to suppress evidence or to suppress a
8 confession shall not be entertained at such a hearing.
9 Evidence that proof may have been obtained as a result of
10 an unlawful search and seizure or through improper
11 interrogation is not relevant to this hearing.

12 (3) Upon a finding by the court that the State has
13 established by clear and convincing evidence that the
14 defendant has committed a forcible felony or a Class 2 or
15 greater offense under the Illinois Controlled Substances
16 Act, the Cannabis Control Act, or the Methamphetamine
17 Control and Community Protection Act while admitted to
18 bail, or where the defendant is on bail for a felony
19 domestic battery (enhanced pursuant to subsection (b) of
20 Section 12-3.2 of the Criminal Code of 1961 or the Criminal
21 Code of 2012), aggravated domestic battery, aggravated
22 battery, unlawful restraint, aggravated unlawful restraint
23 or domestic battery in violation of item (1) of subsection
24 (a) of Section 12-3.2 of the Criminal Code of 1961 or the
25 Criminal Code of 2012 against a family or household member
26 as defined in Section 112A-3 of this Code and the violation

1 is an offense of domestic battery, against the same victim,
2 the court shall revoke the bail of the defendant and hold
3 the defendant for trial without bail. Neither the finding
4 of the court nor any transcript or other record of the
5 hearing shall be admissible in the State's case in chief,
6 but shall be admissible for impeachment, or as provided in
7 Section 115-10.1 of this Code or in a perjury proceeding.

8 (4) If the bail of any defendant is revoked pursuant to
9 paragraph (f) (3) of this Section, the defendant may demand
10 and shall be entitled to be brought to trial on the offense
11 with respect to which he was formerly released on bail
12 within 90 days after the date on which his bail was
13 revoked. If the defendant is not brought to trial within
14 the 90 day period required by the preceding sentence, he
15 shall not be held longer without bail. In computing the 90
16 day period, the court shall omit any period of delay
17 resulting from a continuance granted at the request of the
18 defendant.

19 (5) If the defendant either is arrested on a warrant
20 issued pursuant to this Code or is arrested for an
21 unrelated offense and it is subsequently discovered that
22 the defendant is a subject of another warrant or warrants
23 issued pursuant to this Code, the defendant shall be
24 transferred promptly to the court which issued such
25 warrant. If, however, the defendant appears initially
26 before a court other than the court which issued such

1 warrant, the non-issuing court shall not alter the amount
2 of bail set on such warrant unless the court sets forth on
3 the record of proceedings the conclusions of law and facts
4 which are the basis for such altering of another court's
5 bond. The non-issuing court shall not alter another courts
6 bail set on a warrant unless the interests of justice and
7 public safety are served by such action.

8 (g) The State may appeal any order where the court has
9 increased or reduced the amount of bail or altered the
10 conditions of the bail bond or granted bail where it has
11 previously been revoked.

12 (Source: P.A. 100-1, eff. 1-1-18; 100-929, eff. 1-1-19.)