



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4404

Introduced 1/21/2022, by Rep. Chris Bos

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-4

from Ch. 38, par. 110-4

Amends the Code of Criminal Procedure of 1963. Provides that before January 1, 2023, a person who has 2 or more convictions for firearm offenses shall be denied bail when the court after a hearing, determines that the release of the defendant would pose a real and present threat to the physical safety of any person or persons. Provides that on or after January 1, 2023, a person shall not be eligible for pretrial release when the person is charged with a felony offense and the defendant has 2 or more convictions for firearms offenses if the court after a hearing, determines that the release of the defendant would pose a real and present threat to the physical safety of any person or persons. Effective immediately.

LRB102 21884 RLC 31005 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 110-4 as follows:

6 (725 ILCS 5/110-4) (from Ch. 38, par. 110-4)

7 (Text of Section before amendment by P.A. 101-652)

8 Sec. 110-4. Bailable Offenses.

9 (a) All persons shall be bailable before conviction,
10 except the following offenses where the proof is evident or
11 the presumption great that the defendant is guilty of the
12 offense: capital offenses; offenses for which a sentence of
13 life imprisonment may be imposed as a consequence of
14 conviction; felony offenses for which a sentence of
15 imprisonment, without conditional and revocable release, shall
16 be imposed by law as a consequence of conviction, felony
17 offenses when the defendant has 2 or more convictions for
18 firearms offenses, where the court after a hearing, determines
19 that the release of the defendant would pose a real and present
20 threat to the physical safety of any person or persons;
21 stalking or aggravated stalking, where the court, after a
22 hearing, determines that the release of the defendant would
23 pose a real and present threat to the physical safety of the

1 alleged victim of the offense and denial of bail is necessary
2 to prevent fulfillment of the threat upon which the charge is
3 based; or unlawful use of weapons in violation of item (4) of
4 subsection (a) of Section 24-1 of the Criminal Code of 1961 or
5 the Criminal Code of 2012 when that offense occurred in a
6 school or in any conveyance owned, leased, or contracted by a
7 school to transport students to or from school or a
8 school-related activity, or on any public way within 1,000
9 feet of real property comprising any school, where the court,
10 after a hearing, determines that the release of the defendant
11 would pose a real and present threat to the physical safety of
12 any person and denial of bail is necessary to prevent
13 fulfillment of that threat; or making a terrorist threat in
14 violation of Section 29D-20 of the Criminal Code of 1961 or the
15 Criminal Code of 2012 or an attempt to commit the offense of
16 making a terrorist threat, where the court, after a hearing,
17 determines that the release of the defendant would pose a real
18 and present threat to the physical safety of any person and
19 denial of bail is necessary to prevent fulfillment of that
20 threat.

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

1 (c) Where it is alleged that bail should be denied to a
2 person upon the grounds that the person presents a real and
3 present threat to the physical safety of any person or
4 persons, the burden of proof of such allegations shall be upon
5 the State.

6 (d) When it is alleged that bail should be denied to a
7 person charged with stalking or aggravated stalking upon the
8 grounds set forth in Section 110-6.3 of this Code, the burden
9 of proof of those allegations shall be upon the State.

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

11 (Text of Section after amendment by P.A. 101-652)

12 Sec. 110-4. Pretrial release.

13 (a) Except as otherwise provided in subsection (a-5), all
14 ~~All~~ persons charged with an offense shall be eligible for
15 pretrial release before conviction. Pretrial release may only
16 be denied when a person is charged with an offense listed in
17 Section 110-6.1 or when the defendant has a high likelihood of
18 willful flight, and after the court has held a hearing under
19 Section 110-6.1.

20 (a-5) A person shall not be eligible for pretrial release
21 when the person is charged with a felony offense and the
22 defendant has 2 or more convictions for firearms offenses if
23 the court after a hearing, determines that the release of the
24 defendant would pose a real and present threat to the physical
25 safety of any person or persons.

1 (b) A person seeking pretrial release who is charged with
2 a capital offense or an offense for which a sentence of life
3 imprisonment may be imposed shall not be eligible for release
4 pretrial until a hearing is held wherein such person has the
5 burden of demonstrating that the proof of his guilt is not
6 evident and the presumption is not great.

7 (c) Where it is alleged that pretrial should be denied to a
8 person upon the grounds that the person presents a real and
9 present threat to the physical safety of any person or
10 persons, the burden of proof of such allegations shall be upon
11 the State.

12 (d) When it is alleged that pretrial should be denied to a
13 person charged with stalking or aggravated stalking upon the
14 grounds set forth in Section 110-6.3 of this Code, the burden
15 of proof of those allegations shall be upon the State.

16 (Source: P.A. 101-652, eff. 1-1-23.)

17 Section 95. No acceleration or delay. Where this Act makes
18 changes in a statute that is represented in this Act by text
19 that is not yet or no longer in effect (for example, a Section
20 represented by multiple versions), the use of that text does
21 not accelerate or delay the taking effect of (i) the changes
22 made by this Act or (ii) provisions derived from any other
23 Public Act.

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.