



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4808

Introduced 1/27/2022, by Rep. Jackie Haas

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-6.1	from Ch. 38, par. 110-6.1
725 ILCS 5/111-2.5 new	
725 ILCS 5/114-7	from Ch. 38, par. 114-7
730 ILCS 5/5-4.5-95	

Amends the Code of Criminal Procedure of 1963. Provides that if a person has 3 or more pending charges for misdemeanor domestic battery, battery, violation of an order of protection, or criminal damage to property when the property belongs to a family or household member as defined in the Illinois Domestic Violence Act of 1986, the defendant may be charged as a habitual misdemeanor offender. Provides that the 3 or more charges alleged do not have to be for the same offense. Provides that any offense that results from or is connected with the same transaction, or results from an offense committed at the same time, shall be counted for the purposes of this provision as one offense. Provides that: (1) the third offense must have occurred after the second offense; (2) the second offense must have occurred after the first offense; and (3) all of the charged offenses must be proved at trial in order for the person to be adjudged a habitual misdemeanor offender. Provides that once a person has been adjudged a habitual misdemeanor offender any of the following charges for domestic battery, battery, violation of an order of protection, or criminal damage to property in which the property belongs to a family or household member as defined in the Illinois Domestic Violence Act of 1986 shall be charged as a Class 4 felony. Provides that a habitual misdemeanor offender shall be sentenced as a Class 4 felony offender for which the person shall be sentenced to a term of imprisonment of not less than one year and not more than 3 years. Provides that the court may deny pretrial release to a person charged as a habitual misdemeanor offender. Amends the Unified Code of Corrections to make conforming changes.

LRB102 25013 RLC 34270 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 Sections 110-6.1 and 114-7 and by adding
6 Section 111-2.5 as follows:

7 (725 ILCS 5/110-6.1) (from Ch. 38, par. 110-6.1)

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

9 Sec. 110-6.1. Denial of bail in non-probationable felony
10 offenses.

11 (a) Upon verified petition by the State, the court shall
12 hold a hearing to determine whether bail should be denied to a
13 defendant who is charged with a felony offense for which a
14 sentence of imprisonment, without probation, periodic
15 imprisonment or conditional discharge, is required by law upon
16 conviction, when it is alleged that the defendant's admission
17 to bail poses a real and present threat to the physical safety
18 of any person or persons.

19 (1) A petition may be filed without prior notice to
20 the defendant at the first appearance before a judge, or
21 within the 21 calendar days, except as provided in Section
22 110-6, after arrest and release of the defendant upon
23 reasonable notice to defendant; provided that while such

1 petition is pending before the court, the defendant if
2 previously released shall not be detained.

3 (2) The hearing shall be held immediately upon the
4 defendant's appearance before the court, unless for good
5 cause shown the defendant or the State seeks a
6 continuance. A continuance on motion of the defendant may
7 not exceed 5 calendar days, and a continuance on the
8 motion of the State may not exceed 3 calendar days. The
9 defendant may be held in custody during such continuance.

10 (b) The court may deny bail to the defendant where, after
11 the hearing, it is determined that:

12 (1) the proof is evident or the presumption great that
13 the defendant has committed an offense for which a
14 sentence of imprisonment, without probation, periodic
15 imprisonment or conditional discharge, must be imposed by
16 law as a consequence of conviction, and

17 (2) the defendant poses a real and present threat to
18 the physical safety of any person or persons, by conduct
19 which may include, but is not limited to, a forcible
20 felony, the obstruction of justice, intimidation, injury,
21 physical harm, an offense under the Illinois Controlled
22 Substances Act which is a Class X felony, or an offense
23 under the Methamphetamine Control and Community Protection
24 Act which is a Class X felony, and

25 (3) the court finds that no condition or combination
26 of conditions set forth in subsection (b) of Section

1 110-10 of this Article, can reasonably assure the physical
2 safety of any other person or persons.

3 (c) Conduct of the hearings.

4 (1) The hearing on the defendant's culpability and
5 dangerousness shall be conducted in accordance with the
6 following provisions:

7 (A) Information used by the court in its findings
8 or stated in or offered at such hearing may be by way
9 of proffer based upon reliable information offered by
10 the State or by defendant. Defendant has the right to
11 be represented by counsel, and if he is indigent, to
12 have counsel appointed for him. Defendant shall have
13 the opportunity to testify, to present witnesses in
14 his own behalf, and to cross-examine witnesses if any
15 are called by the State. The defendant has the right to
16 present witnesses in his favor. When the ends of
17 justice so require, the court may exercise its
18 discretion and compel the appearance of a complaining
19 witness. The court shall state on the record reasons
20 for granting a defense request to compel the presence
21 of a complaining witness. Cross-examination of a
22 complaining witness at the pretrial detention hearing
23 for the purpose of impeaching the witness' credibility
24 is insufficient reason to compel the presence of the
25 witness. In deciding whether to compel the appearance
26 of a complaining witness, the court shall be

1 considerate of the emotional and physical well-being
2 of the witness. The pre-trial detention hearing is not
3 to be used for purposes of discovery, and the post
4 arraignment rules of discovery do not apply. The State
5 shall tender to the defendant, prior to the hearing,
6 copies of defendant's criminal history, if any, if
7 available, and any written or recorded statements and
8 the substance of any oral statements made by any
9 person, if relied upon by the State in its petition.
10 The rules concerning the admissibility of evidence in
11 criminal trials do not apply to the presentation and
12 consideration of information at the hearing. At the
13 trial concerning the offense for which the hearing was
14 conducted neither the finding of the court nor any
15 transcript or other record of the hearing shall be
16 admissible in the State's case in chief, but shall be
17 admissible for impeachment, or as provided in Section
18 115-10.1 of this Code, or in a perjury proceeding.

19 (B) A motion by the defendant to suppress evidence
20 or to suppress a confession shall not be entertained.
21 Evidence that proof may have been obtained as the
22 result of an unlawful search and seizure or through
23 improper interrogation is not relevant to this state
24 of the prosecution.

25 (2) The facts relied upon by the court to support a
26 finding that the defendant poses a real and present threat

1 to the physical safety of any person or persons shall be
2 supported by clear and convincing evidence presented by
3 the State.

4 (d) Factors to be considered in making a determination of
5 dangerousness. The court may, in determining whether the
6 defendant poses a real and present threat to the physical
7 safety of any person or persons, consider but shall not be
8 limited to evidence or testimony concerning:

9 (1) The nature and circumstances of any offense
10 charged, including whether the offense is a crime of
11 violence, involving a weapon.

12 (2) The history and characteristics of the defendant
13 including:

14 (A) Any evidence of the defendant's prior criminal
15 history indicative of violent, abusive or assaultive
16 behavior, or lack of such behavior. Such evidence may
17 include testimony or documents received in juvenile
18 proceedings, criminal, quasi-criminal, civil
19 commitment, domestic relations or other proceedings.

20 (B) Any evidence of the defendant's psychological,
21 psychiatric or other similar social history which
22 tends to indicate a violent, abusive, or assaultive
23 nature, or lack of any such history.

24 (3) The identity of any person or persons to whose
25 safety the defendant is believed to pose a threat, and the
26 nature of the threat;

1 (4) Any statements made by, or attributed to the
2 defendant, together with the circumstances surrounding
3 them;

4 (5) The age and physical condition of any person
5 assaulted by the defendant;

6 (6) Whether the defendant is known to possess or have
7 access to any weapon or weapons;

8 (7) Whether, at the time of the current offense or any
9 other offense or arrest, the defendant was on probation,
10 parole, aftercare release, mandatory supervised release or
11 other release from custody pending trial, sentencing,
12 appeal or completion of sentence for an offense under
13 federal or state law;

14 (8) Any other factors, including those listed in
15 Section 110-5 of this Article deemed by the court to have a
16 reasonable bearing upon the defendant's propensity or
17 reputation for violent, abusive or assaultive behavior, or
18 lack of such behavior.

19 (e) Detention order. The court shall, in any order for
20 detention:

21 (1) briefly summarize the evidence of the defendant's
22 culpability and its reasons for concluding that the
23 defendant should be held without bail;

24 (2) direct that the defendant be committed to the
25 custody of the sheriff for confinement in the county jail
26 pending trial;

1 (3) direct that the defendant be given a reasonable
2 opportunity for private consultation with counsel, and for
3 communication with others of his choice by visitation,
4 mail and telephone; and

5 (4) direct that the sheriff deliver the defendant as
6 required for appearances in connection with court
7 proceedings.

8 (f) If the court enters an order for the detention of the
9 defendant pursuant to subsection (e) of this Section, the
10 defendant shall be brought to trial on the offense for which he
11 is detained within 90 days after the date on which the order
12 for detention was entered. If the defendant is not brought to
13 trial within the 90 day period required by the preceding
14 sentence, he shall not be held longer without bail. In
15 computing the 90 day period, the court shall omit any period of
16 delay resulting from a continuance granted at the request of
17 the defendant.

18 (g) Rights of the defendant. Any person shall be entitled
19 to appeal any order entered under this Section denying bail to
20 the defendant.

21 (h) The State may appeal any order entered under this
22 Section denying any motion for denial of bail.

23 (i) Nothing in this Section shall be construed as
24 modifying or limiting in any way the defendant's presumption
25 of innocence in further criminal proceedings.

26 (Source: P.A. 98-558, eff. 1-1-14.)

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

2 Sec. 110-6.1. Denial of pretrial release.

3 (a) Upon verified petition by the State, the court shall
4 hold a hearing and may deny a defendant pretrial release only
5 if:

6 (1) the defendant is charged with a forcible felony
7 offense for which a sentence of imprisonment, without
8 probation, periodic imprisonment or conditional discharge,
9 is required by law upon conviction, and it is alleged that
10 the defendant's pretrial release poses a specific, real
11 and present threat to any person or the community.;

12 (2) the defendant is charged with stalking or
13 aggravated stalking and it is alleged that the defendant's
14 pre-trial release poses a real and present threat to the
15 physical safety of a victim of the alleged offense, and
16 denial of release is necessary to prevent fulfillment of
17 the threat upon which the charge is based;

18 (3) the victim of abuse was a family or household
19 member as defined by paragraph (6) of Section 103 of the
20 Illinois Domestic Violence Act of 1986, and the person
21 charged, at the time of the alleged offense, was subject
22 to the terms of an order of protection issued under
23 Section 112A-14 of this Code, or Section 214 of the
24 Illinois Domestic Violence Act of 1986 or previously was
25 convicted of a violation of an order of protection under

1 Section 12-3.4 or 12-30 of the Criminal Code of 1961 or the
2 Criminal Code of 2012 or a violent crime if the victim was
3 a family or household member as defined by paragraph (6)
4 of the Illinois Domestic Violence Act of 1986 at the time
5 of the offense or a violation of a substantially similar
6 municipal ordinance or law of this or any other state or
7 the United States if the victim was a family or household
8 member as defined by paragraph (6) of Section 103 of the
9 Illinois Domestic Violence Act of 1986 at the time of the
10 offense, and it is alleged that the defendant's pre-trial
11 release poses a real and present threat to the physical
12 safety of any person or persons;

13 (4) the defendant is charged with domestic battery or
14 aggravated domestic battery under Section 12-3.2 or 12-3.3
15 of the Criminal Code of 2012 and it is alleged that the
16 defendant's pretrial release poses a real and present
17 threat to the physical safety of any person or persons;

18 (5) the defendant is charged with any offense under
19 Article 11 of the Criminal Code of 2012, except for
20 Sections 11-30, 11-35, 11-40, and 11-45 of the Criminal
21 Code of 2012, or similar provisions of the Criminal Code
22 of 1961 and it is alleged that the defendant's pretrial
23 release poses a real and present threat to the physical
24 safety of any person or persons;

25 (6) the defendant is charged with any of these
26 violations under the Criminal Code of 2012 and it is

1 alleged that the defendant's pretrial releases poses a
2 real and present threat to the physical safety of any
3 specifically identifiable person or persons.

4 (A) Section 24-1.2 (aggravated discharge of a
5 firearm);

6 (B) Section 24-2.5 (aggravated discharge of a
7 machine gun or a firearm equipped with a device
8 designed or use for silencing the report of a
9 firearm);

10 (C) Section 24-1.5 (reckless discharge of a
11 firearm);

12 (D) Section 24-1.7 (armed habitual criminal);

13 (E) Section 24-2.2 2 (manufacture, sale or
14 transfer of bullets or shells represented to be armor
15 piercing bullets, dragon's breath shotgun shells, bolo
16 shells or flechette shells);

17 (F) Section 24-3 (unlawful sale or delivery of
18 firearms);

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

21 (H) Section 24-34 (unlawful sale of firearms by
22 liquor license);

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

25 (J) Section 24-3A (gunrunning); or

26 (K) Section on 24-3B (firearms trafficking);

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

2 (M) Section 10-9 (c) (involuntary sexual servitude
3 of a minor);

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

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

11 (7) the person has a high likelihood of willful flight
12 to avoid prosecution and is charged with:

13 (A) Any felony described in Sections (a)(1)
14 through (a)(5) of this Section; or

15 (B) A felony offense other than a Class 4 offense;
16 or

17 (8) the defendant is charged as a habitual
18 misdemeanant offender.

19 (b) If the charged offense is a felony, the Court shall
20 hold a hearing pursuant to 109-3 of this Code to determine
21 whether there is probable cause the defendant has committed an
22 offense, unless a grand jury has returned a true bill of
23 indictment against the defendant. If there is a finding of no
24 probable cause, the defendant shall be released. No such
25 finding is necessary if the defendant is charged with a
26 misdemeanor.

1 (c) Timing of petition.

2 (1) A petition may be filed without prior notice to
3 the defendant at the first appearance before a judge, or
4 within the 21 calendar days, except as provided in Section
5 110-6, after arrest and release of the defendant upon
6 reasonable notice to defendant; provided that while such
7 petition is pending before the court, the defendant if
8 previously released shall not be detained.

9 (2) (2) Upon filing, the court shall immediately hold
10 a hearing on the petition unless a continuance is
11 requested. If a continuance is requested, the hearing
12 shall be held within 48 hours of the defendant's first
13 appearance if the defendant is charged with a Class X,
14 Class 1, Class 2, or Class 3 felony, and within 24 hours if
15 the defendant is charged with a Class 4 or misdemeanor
16 offense. The Court may deny and or grant the request for
17 continuance. If the court decides to grant the
18 continuance, the Court retains the discretion to detain or
19 release the defendant in the time between the filing of
20 the petition and the hearing.

21 (d) Contents of petition.

22 (1) The petition shall be verified by the State and
23 shall state the grounds upon which it contends the
24 defendant should be denied pretrial release, including the
25 identity of the specific person or persons the State
26 believes the defendant poses a danger to.

1 (2) Only one petition may be filed under this Section.

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

5 (1) the proof is evident or the presumption great that
6 the defendant has committed an offense listed in
7 paragraphs (1) through (6) of subsection (a), and

8 (2) the defendant poses a real and present threat to
9 the safety of a specific, identifiable person or persons,
10 by conduct which may include, but is not limited to, a
11 forcible felony, the obstruction of justice, intimidation,
12 injury, or abuse as defined by paragraph (1) of Section
13 103 of the Illinois Domestic Violence Act of 1986, and

14 (3) no condition or combination of conditions set
15 forth in subsection (b) of Section 110-10 of this Article
16 can mitigate the real and present threat to the safety of
17 any person or persons or the defendant's willful flight.

18 (f) Conduct of the hearings.

19 (1) Prior to the hearing the State shall tender to the
20 defendant copies of defendant's criminal history
21 available, any written or recorded statements, and the
22 substance of any oral statements made by any person, if
23 relied upon by the State in its petition, and any police
24 reports in the State's Attorney's possession at the time
25 of the hearing that are required to be disclosed to the
26 defense under Illinois Supreme Court rules.

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

3 (3) The defendant has the right to be represented by
4 counsel, and if he or she is indigent, to have counsel
5 appointed for him or her. The defendant shall have the
6 opportunity to testify, to present witnesses on his or her
7 own behalf, and to cross-examine any witnesses that are
8 called by the State.

9 (4) If the defense seeks to call the complaining
10 witness as a witness in its favor, it shall petition the
11 court for permission. When the ends of justice so require,
12 the court may exercise its discretion and compel the
13 appearance of a complaining witness. The court shall state
14 on the record reasons for granting a defense request to
15 compel the presence of a complaining witness. In making a
16 determination under this section, the court shall state on
17 the record the reason for granting a defense request to
18 compel the presence of a complaining witness, and only
19 grant the request if the court finds by clear and
20 convincing evidence that the defendant will be materially
21 prejudiced if the complaining witness does not appear.
22 Cross-examination of a complaining witness at the pretrial
23 detention hearing for the purpose of impeaching the
24 witness' credibility is insufficient reason to compel the
25 presence of the witness. In deciding whether to compel the
26 appearance of a complaining witness, the court shall be

1 considerate of the emotional and physical well-being of
2 the witness. The pre-trial detention hearing is not to be
3 used for purposes of discovery, and the post arraignment
4 rules of discovery do not apply.

5 (5) The rules concerning the admissibility of evidence
6 in criminal trials do not apply to the presentation and
7 consideration of information at the hearing. At the trial
8 concerning the offense for which the hearing was conducted
9 neither the finding of the court nor any transcript or
10 other record of the hearing shall be admissible in the
11 State's case in chief, but shall be admissible for
12 impeachment, or as provided in Section 115-10.1 of this
13 Code, or in a perjury proceeding.

14 (6) The defendant may not move to suppress evidence or
15 a confession, however, evidence that proof of the charged
16 crime may have been the result of an unlawful search or
17 seizure, or both, or through improper interrogation, is
18 relevant in assessing the weight of the evidence against
19 the defendant.

20 (7) Decisions regarding release, conditions of release
21 and detention prior trial should be individualized, and no
22 single factor or standard should be used exclusively to
23 make a condition or detention decision.

24 (g) Factors to be considered in making a determination of
25 dangerousness. The court may, in determining whether the
26 defendant poses a specific, imminent threat of serious

1 physical harm to an identifiable person or persons, consider
2 but shall not be limited to evidence or testimony concerning:

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

6 (2) The history and characteristics of the defendant
7 including:

8 (A) Any evidence of the defendant's prior criminal
9 history indicative of violent, abusive or assaultive
10 behavior, or lack of such behavior. Such evidence may
11 include testimony or documents received in juvenile
12 proceedings, criminal, quasi-criminal, civil
13 commitment, domestic relations or other proceedings.

14 (B) Any evidence of the defendant's psychological,
15 psychiatric or other similar social history which
16 tends to indicate a violent, abusive, or assaultive
17 nature, or lack of any such history.

18 (3) The identity of any person or persons to whose
19 safety the defendant is believed to pose a threat, and the
20 nature of the threat;

21 (4) Any statements made by, or attributed to the
22 defendant, together with the circumstances surrounding
23 them;

24 (5) The age and physical condition of the defendant;

25 (6) The age and physical condition of any victim or
26 complaining witness;

1 (7) Whether the defendant is known to possess or have
2 access to any weapon or weapons;

3 (8) Whether, at the time of the current offense or any
4 other offense or arrest, the defendant was on probation,
5 parole, aftercare release, mandatory supervised release or
6 other release from custody pending trial, sentencing,
7 appeal or completion of sentence for an offense under
8 federal or state law;

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

14 (h) Detention order. The court shall, in any order for
15 detention:

16 (1) briefly summarize the evidence of the defendant's
17 guilt or innocence, and the court's reasons for concluding
18 that the defendant should be denied pretrial release;

19 (2) direct that the defendant be committed to the
20 custody of the sheriff for confinement in the county jail
21 pending trial;

22 (3) direct that the defendant be given a reasonable
23 opportunity for private consultation with counsel, and for
24 communication with others of his or her choice by
25 visitation, mail and telephone; and

26 (4) direct that the sheriff deliver the defendant as

1 required for appearances in connection with court
2 proceedings.

3 (i) Detention. If the court enters an order for the
4 detention of the defendant pursuant to subsection (e) of this
5 Section, the defendant shall be brought to trial on the
6 offense for which he is detained within 90 days after the date
7 on which the order for detention was entered. If the defendant
8 is not brought to trial within the 90 day period required by
9 the preceding sentence, he shall not be denied pretrial
10 release. In computing the 90 day period, the court shall omit
11 any period of delay resulting from a continuance granted at
12 the request of the defendant.

13 (j) Rights of the defendant. Any person shall be entitled
14 to appeal any order entered under this Section denying
15 pretrial release to the defendant.

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) Victim notice.

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 an order of
3 protection under Article 112A of this Code.

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

5 (725 ILCS 5/111-2.5 new)

6 Sec. 111-2.5. Habitual misdemeanor offender; charges.

7 (a) If a person has 3 or more pending charges for
8 misdemeanor domestic battery, battery, violation of an order
9 of protection, or criminal damage to property when the
10 property belongs to a family or household member as defined in
11 Section 103 of the Illinois Domestic Violence Act of 1986, the
12 defendant may be charged as a habitual misdemeanor offender.

13 (b) The 3 or more charges alleged do not have to be for the
14 same offense. Any offense that results from or is connected
15 with the same transaction, or results from an offense
16 committed at the same time, shall be counted for the purposes
17 of this Section as one offense.

18 (c) This Section does not apply unless each of the
19 following requirements are satisfied:

20 (1) The third offense occurred after the second
21 offense.

22 (2) The second offense occurred after the first
23 offense.

24 (3) All of the charged offenses must be proved at
25 trial in order for the person to be adjudged a habitual

1 misdemeanant offender.

2 (d) Once a person has been adjudged a habitual
3 misdemeanant offender any of the following charges for
4 domestic battery, battery, violation of an order of
5 protection, or criminal damage to property in which the
6 property belongs to a family or household member as defined in
7 Section 103 of the Illinois Domestic Violence Act of 1986
8 shall be charged as a Class 4 felony.

9 (e) All of the charged offenses must be proved at trial in
10 order for the person to be adjudged a habitual misdemeanant
11 offender.

12 (f) Sentence. A habitual misdemeanant offender shall be
13 sentenced as a Class 4 felony offender for which the person
14 shall be sentenced to a term of imprisonment of not less than
15 one year and not more than 3 years.

16 (725 ILCS 5/114-7) (from Ch. 38, par. 114-7)

17 Sec. 114-7. Joinder of related prosecutions.

18 The court may order 2 or more charges to be tried together
19 if the offenses and the defendants could have been joined in a
20 single charge. If a person is charged as a habitual
21 misdemeanant offender, all charges needed to adjudicate the
22 defendant as a habitual misdemeanant offender shall be tried
23 together. The procedure shall be the same as if the
24 prosecution were under a single charge.

25 (Source: Laws 1963, p. 2836.)

1 Section 10. The Unified Code of Corrections is amended by
2 changing Section 5-4.5-95 as follows:

3 (730 ILCS 5/5-4.5-95)

4 Sec. 5-4.5-95. GENERAL RECIDIVISM PROVISIONS.

5 (a) HABITUAL CRIMINALS.

6 (1) Every person who has been twice convicted in any
7 state or federal court of an offense that contains the
8 same elements as an offense now (the date of the offense
9 committed after the 2 prior convictions) classified in
10 Illinois as a Class X felony, criminal sexual assault,
11 aggravated kidnapping, or first degree murder, and who is
12 thereafter convicted of a Class X felony, criminal sexual
13 assault, or first degree murder, committed after the 2
14 prior convictions, shall be adjudged an habitual criminal.

15 (2) The 2 prior convictions need not have been for the
16 same offense.

17 (3) Any convictions that result from or are connected
18 with the same transaction, or result from offenses
19 committed at the same time, shall be counted for the
20 purposes of this Section as one conviction.

21 (4) This Section does not apply unless each of the
22 following requirements are satisfied:

23 (A) The third offense was committed after July 3,
24 1980.

1 (B) The third offense was committed within 20
2 years of the date that judgment was entered on the
3 first conviction; provided, however, that time spent
4 in custody shall not be counted.

5 (C) The third offense was committed after
6 conviction on the second offense.

7 (D) The second offense was committed after
8 conviction on the first offense.

9 (E) The first offense was committed when the
10 person was 21 years of age or older.

11 (5) Anyone who is adjudged an habitual criminal shall
12 be sentenced to a term of natural life imprisonment.

13 (6) A prior conviction shall not be alleged in the
14 indictment, and no evidence or other disclosure of that
15 conviction shall be presented to the court or the jury
16 during the trial of an offense set forth in this Section
17 unless otherwise permitted by the issues properly raised
18 in that trial. After a plea or verdict or finding of guilty
19 and before sentence is imposed, the prosecutor may file
20 with the court a verified written statement signed by the
21 State's Attorney concerning any former conviction of an
22 offense set forth in this Section rendered against the
23 defendant. The court shall then cause the defendant to be
24 brought before it; shall inform the defendant of the
25 allegations of the statement so filed, and of his or her
26 right to a hearing before the court on the issue of that

1 former conviction and of his or her right to counsel at
2 that hearing; and unless the defendant admits such
3 conviction, shall hear and determine the issue, and shall
4 make a written finding thereon. If a sentence has
5 previously been imposed, the court may vacate that
6 sentence and impose a new sentence in accordance with this
7 Section.

8 (7) A duly authenticated copy of the record of any
9 alleged former conviction of an offense set forth in this
10 Section shall be prima facie evidence of that former
11 conviction; and a duly authenticated copy of the record of
12 the defendant's final release or discharge from probation
13 granted, or from sentence and parole supervision (if any)
14 imposed pursuant to that former conviction, shall be prima
15 facie evidence of that release or discharge.

16 (8) Any claim that a previous conviction offered by
17 the prosecution is not a former conviction of an offense
18 set forth in this Section because of the existence of any
19 exceptions described in this Section, is waived unless
20 duly raised at the hearing on that conviction, or unless
21 the prosecution's proof shows the existence of the
22 exceptions described in this Section.

23 (9) If the person so convicted shows to the
24 satisfaction of the court before whom that conviction was
25 had that he or she was released from imprisonment, upon
26 either of the sentences upon a pardon granted for the

1 reason that he or she was innocent, that conviction and
2 sentence shall not be considered under this Section.

3

4 (b) When a defendant, over the age of 21 years, is
5 convicted of a Class 1 or Class 2 forcible felony after having
6 twice been convicted in any state or federal court of an
7 offense that contains the same elements as an offense now (the
8 date the Class 1 or Class 2 forcible felony was committed)
9 classified in Illinois as a Class 2 or greater Class forcible
10 felony and those charges are separately brought and tried and
11 arise out of different series of acts, that defendant shall be
12 sentenced as a Class X offender. This subsection does not
13 apply unless:

14 (1) the first forcible felony was committed after
15 February 1, 1978 (the effective date of Public Act
16 80-1099);

17 (2) the second forcible felony was committed after
18 conviction on the first;

19 (3) the third forcible felony was committed after
20 conviction on the second; and

21 (4) the first offense was committed when the person
22 was 21 years of age or older.

23 (c) (Blank).

24 A person sentenced as a Class X offender under this
25 subsection (b) is not eligible to apply for treatment as a
26 condition of probation as provided by Section 40-10 of the

1 Substance Use Disorder Act (20 ILCS 301/40-10).

2 (d) A habitual misdemeanor offender as described in
3 Section 111-2.5 of the Code of Criminal Procedure of 1963
4 shall be sentenced as a Class 4 felony offender for which the
5 person shall be sentenced to a term of imprisonment of not less
6 than one year and not more than 3 years.

7

8 (Source: P.A. 100-3, eff. 1-1-18; 100-759, eff. 1-1-19;
9 101-652, eff. 7-1-21.)

10 Section 95. No acceleration or delay. Where this Act makes
11 changes in a statute that is represented in this Act by text
12 that is not yet or no longer in effect (for example, a Section
13 represented by multiple versions), the use of that text does
14 not accelerate or delay the taking effect of (i) the changes
15 made by this Act or (ii) provisions derived from any other
16 Public Act.