



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3009

Introduced 2/16/2023, by Rep. Dan Ugaste

SYNOPSIS AS INTRODUCED:

See Index

Restores certain provisions of Code of Criminal Procedure of 1963 concerning cash bail to the form in which they existed before their amendment by Public Act 101-652 by amendment or reenactment. Amends the Statute on Statutes to provide that whenever there is a reference in any Act to the term "pretrial release", "denial of pretrial release", "conditions of pretrial release", or "violations of the conditions of pretrial release", the terms shall be construed to mean "bail", "denial of bail", "conditions of bail", or "forfeiture of bail" respectively. Provides that if the defendant is acquitted, the court shall order 100% of the defendant's bail deposit returned to the defendant or to the defendant's designee by an assignment executed at the time the bail amount is deposited. Deletes a provision that in no event shall the amount retained by the clerk of the court as bail bond costs be less than \$5 and deletes in counties with a population of 3,000,000 or more in no event shall the amount retained by the clerk of the court as bail bond costs exceed \$100. Effective immediately.

LRB103 27303 RLC 53674 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 Statute on Statutes is amended by changing
5 Section 1.43 as follows:

6 (5 ILCS 70/1.43)

7 Sec. 1.43. Reference to "pretrial release", "denial of
8 pretrial release", "conditions of release", or "violations of
9 the conditions of release" ~~bail, bail bond, or conditions of~~
10 ~~bail~~. Whenever there is a reference in any Act to the terms
11 "release", "denial of release", "conditions of release", or
12 "violations of the conditions of release", the terms shall be
13 construed to mean "bail", "denial of bail", "conditions of
14 bail", or "forfeiture of bail" respectively. ~~"bail", "bail~~
15 ~~bond", or "conditions of bail", these terms shall be construed~~
16 ~~as "pretrial release" or "conditions of pretrial release".~~

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

18 Section 10. The Code of Criminal Procedure of 1963 is
19 amended by changing the heading of Article 110 and by changing
20 Sections 102-6, 102-7, 103-5, 103-7, 103-9, 104-13, 104-17,
21 106D-1, 107-4, 107-9, 109-1, 109-2, 109-3, 109-3.1, 110-1,
22 110-2, 110-3, 110-4, 110-5, 110-5.2, 110-6, 110-6.1, 110-6.2,

1 110-6.4, 110-7, 110-10, 110-11, 110-12, 111-2, 112A-23, 114-1,
2 115-4.1, and 122-6 and by adding Section 110-7.1 as follows:

3 (725 ILCS 5/102-6) (from Ch. 38, par. 102-6)

4 Sec. 102-6. ~~Pretrial release~~ "Bail".

5 ~~"Pretrial release"~~ "Bail" ~~has the meaning ascribed to bail~~
6 ~~in Section 9 of Article I of the Illinois Constitution that is~~
7 ~~non-monetary~~ means the amount of money set by the court which
8 is required to be obligated and secured as provided by law for
9 the release of a person in custody in order that he will appear
10 before the court in which his appearance may be required and
11 that he will comply with such conditions as set forth in the
12 bail bond.

13 (Source: Laws 1963, p. 2836; P.A. 101-652.)

14 (725 ILCS 5/102-7) (from Ch. 38, par. 102-7)

15 Sec. 102-7. ~~Conditions of pretrial release~~ "Bail bond".

16 ~~"Conditions of pretrial release"~~ "Bail bond" means ~~the~~
17 ~~conditions established by the court~~ an undertaking secured by
18 bail entered into by a person in custody by which he binds
19 himself to comply with such conditions as are set forth
20 therein.

21 (Source: Laws 1963, p. 2836; P.A. 101-652.)

22 (725 ILCS 5/103-5) (from Ch. 38, par. 103-5)

23 Sec. 103-5. Speedy trial.)

1 (a) Every person in custody in this State for an alleged
2 offense shall be tried by the court having jurisdiction within
3 120 days from the date he or she was taken into custody unless
4 delay is occasioned by the defendant, by an examination for
5 fitness ordered pursuant to Section 104-13 of this Act, by a
6 fitness hearing, by an adjudication of unfitness to stand
7 trial, by a continuance allowed pursuant to Section 114-4 of
8 this Act after a court's determination of the defendant's
9 physical incapacity for trial, or by an interlocutory appeal.
10 Delay shall be considered to be agreed to by the defendant
11 unless he or she objects to the delay by making a written
12 demand for trial or an oral demand for trial on the record. The
13 provisions of this subsection (a) do not apply to a person on
14 ~~pretrial release~~ bail or recognizance for an offense but who
15 is in custody for a violation of his or her parole, aftercare
16 release, or mandatory supervised release for another offense.

17 The 120-day term must be one continuous period of
18 incarceration. In computing the 120-day term, separate periods
19 of incarceration may not be combined. If a defendant is taken
20 into custody a second (or subsequent) time for the same
21 offense, the term will begin again at day zero.

22 (b) Every person on ~~pretrial release~~ bail or recognizance
23 shall be tried by the court having jurisdiction within 160
24 days from the date defendant demands trial unless delay is
25 occasioned by the defendant, by an examination for fitness
26 ordered pursuant to Section 104-13 of this Act, by a fitness

1 hearing, by an adjudication of unfitness to stand trial, by a
2 continuance allowed pursuant to Section 114-4 of this Act
3 after a court's determination of the defendant's physical
4 incapacity for trial, or by an interlocutory appeal. The
5 defendant's failure to appear for any court date set by the
6 court operates to waive the defendant's demand for trial made
7 under this subsection.

8 For purposes of computing the 160 day period under this
9 subsection (b), every person who was in custody for an alleged
10 offense and demanded trial and is subsequently released on
11 ~~pretrial release~~ bail or recognizance and demands trial, shall
12 be given credit for time spent in custody following the making
13 of the demand while in custody. Any demand for trial made under
14 this subsection (b) shall be in writing; and in the case of a
15 defendant not in custody, the demand for trial shall include
16 the date of any prior demand made under this provision while
17 the defendant was in custody.

18 (c) If the court determines that the State has exercised
19 without success due diligence to obtain evidence material to
20 the case and that there are reasonable grounds to believe that
21 such evidence may be obtained at a later day the court may
22 continue the cause on application of the State for not more
23 than an additional 60 days. If the court determines that the
24 State has exercised without success due diligence to obtain
25 results of DNA testing that is material to the case and that
26 there are reasonable grounds to believe that such results may

1 be obtained at a later day, the court may continue the cause on
2 application of the State for not more than an additional 120
3 days.

4 (d) Every person not tried in accordance with subsections
5 (a), (b) and (c) of this Section shall be discharged from
6 custody or released from the obligations of his ~~pretrial~~
7 ~~release~~ bail or recognizance.

8 (e) If a person is simultaneously in custody upon more
9 than one charge pending against him in the same county, or
10 simultaneously demands trial upon more than one charge pending
11 against him in the same county, he shall be tried, or adjudged
12 guilty after waiver of trial, upon at least one such charge
13 before expiration relative to any of such pending charges of
14 the period prescribed by subsections (a) and (b) of this
15 Section. Such person shall be tried upon all of the remaining
16 charges thus pending within 160 days from the date on which
17 judgment relative to the first charge thus prosecuted is
18 rendered pursuant to the Unified Code of Corrections or, if
19 such trial upon such first charge is terminated without
20 judgment and there is no subsequent trial of, or adjudication
21 of guilt after waiver of trial of, such first charge within a
22 reasonable time, the person shall be tried upon all of the
23 remaining charges thus pending within 160 days from the date
24 on which such trial is terminated; if either such period of 160
25 days expires without the commencement of trial of, or
26 adjudication of guilt after waiver of trial of, any of such

1 remaining charges thus pending, such charge or charges shall
2 be dismissed and barred for want of prosecution unless delay
3 is occasioned by the defendant, by an examination for fitness
4 ordered pursuant to Section 104-13 of this Act, by a fitness
5 hearing, by an adjudication of unfitness for trial, by a
6 continuance allowed pursuant to Section 114-4 of this Act
7 after a court's determination of the defendant's physical
8 incapacity for trial, or by an interlocutory appeal; provided,
9 however, that if the court determines that the State has
10 exercised without success due diligence to obtain evidence
11 material to the case and that there are reasonable grounds to
12 believe that such evidence may be obtained at a later day the
13 court may continue the cause on application of the State for
14 not more than an additional 60 days.

15 (f) Delay occasioned by the defendant shall temporarily
16 suspend for the time of the delay the period within which a
17 person shall be tried as prescribed by subsections (a), (b),
18 or (e) of this Section and on the day of expiration of the
19 delay the said period shall continue at the point at which it
20 was suspended. Where such delay occurs within 21 days of the
21 end of the period within which a person shall be tried as
22 prescribed by subsections (a), (b), or (e) of this Section,
23 the court may continue the cause on application of the State
24 for not more than an additional 21 days beyond the period
25 prescribed by subsections (a), (b), or (e). This subsection
26 (f) shall become effective on, and apply to persons charged

1 with alleged offenses committed on or after, March 1, 1977.

2 (Source: P.A. 98-558, eff. 1-1-14; 101-652.)

3 (725 ILCS 5/103-7) (from Ch. 38, par. 103-7)

4 Sec. 103-7. Posting notice of rights.

5 Every sheriff, chief of police or other person who is in
6 charge of any jail, police station or other building where
7 persons under arrest are held in custody pending
8 investigation, ~~pretrial release~~ bail or other criminal
9 proceedings, shall post in every room, other than cells, of
10 such buildings where persons are held in custody, in
11 conspicuous places where it may be seen and read by persons in
12 custody and others, a poster, printed in large type,
13 containing a verbatim copy in the English language of the
14 provisions of Sections 103-2, 103-3, 103-4, 109-1, 110-2,
15 110-4, and sub-parts (a) and (b) of Sections 110-7 and 113-3 of
16 this Code. Each person who is in charge of any courthouse or
17 other building in which any trial of an offense is conducted
18 shall post in each room primarily used for such trials and in
19 each room in which defendants are confined or wait, pending
20 trial, in conspicuous places where it may be seen and read by
21 persons in custody and others, a poster, printed in large
22 type, containing a verbatim copy in the English language of
23 the provisions of Sections 103-6, 113-1, 113-4 and 115-1 and
24 of subparts (a) and (b) of Section 113-3 of this Code.

25 (Source: Laws 1965, p. 2622; P.A. 101-652.)

1 (725 ILCS 5/103-9) (from Ch. 38, par. 103-9)

2 Sec. 103-9. Bail bondsmen. No bail bondsman from any state
3 may seize or transport unwillingly any person found in this
4 State who is allegedly in violation of a bail bond posted in
5 some other state ~~or conditions of pretrial release~~. The return
6 of any such person to another state may be accomplished only as
7 provided by the laws of this State. Any bail bondsman who
8 violates this Section is fully subject to the criminal and
9 civil penalties provided by the laws of this State for his
10 actions.

11 (Source: P.A. 84-694; 101-652.)

12 (725 ILCS 5/104-13) (from Ch. 38, par. 104-13)

13 Sec. 104-13. Fitness Examination.

14 (a) When the issue of fitness involves the defendant's
15 mental condition, the court shall order an examination of the
16 defendant by one or more licensed physicians, clinical
17 psychologists, or psychiatrists chosen by the court. No
18 physician, clinical psychologist or psychiatrist employed by
19 the Department of Human Services shall be ordered to perform,
20 in his official capacity, an examination under this Section.

21 (b) If the issue of fitness involves the defendant's
22 physical condition, the court shall appoint one or more
23 physicians and in addition, such other experts as it may deem
24 appropriate to examine the defendant and to report to the

1 court regarding the defendant's condition.

2 (c) An examination ordered under this Section shall be
3 given at the place designated by the person who will conduct
4 the examination, except that if the defendant is being held in
5 custody, the examination shall take place at such location as
6 the court directs. No examinations under this Section shall be
7 ordered to take place at mental health or developmental
8 disabilities facilities operated by the Department of Human
9 Services. If the defendant fails to keep appointments without
10 reasonable cause or if the person conducting the examination
11 reports to the court that diagnosis requires hospitalization
12 or extended observation, the court may order the defendant
13 admitted to an appropriate facility for an examination, other
14 than a screening examination, for not more than 7 days. The
15 court may, upon a showing of good cause, grant an additional 7
16 days to complete the examination.

17 (d) Release on ~~pretrial release~~ bail or on recognizance
18 shall not be revoked and an application therefor shall not be
19 denied on the grounds that an examination has been ordered.

20 (e) Upon request by the defense and if the defendant is
21 indigent, the court may appoint, in addition to the expert or
22 experts chosen pursuant to subsection (a) of this Section, a
23 qualified expert selected by the defendant to examine him and
24 to make a report as provided in Section 104-15. Upon the filing
25 with the court of a verified statement of services rendered,
26 the court shall enter an order on the county board to pay such

1 expert a reasonable fee stated in the order.

2 (Source: P.A. 89-507, eff. 7-1-97; 101-652.)

3 (725 ILCS 5/104-17) (from Ch. 38, par. 104-17)

4 Sec. 104-17. Commitment for treatment; treatment plan.

5 (a) If the defendant is eligible to be or has been released
6 on ~~pretrial release~~ bail or on his own recognizance, the court
7 shall select the least physically restrictive form of
8 treatment therapeutically appropriate and consistent with the
9 treatment plan. The placement may be ordered either on an
10 inpatient or an outpatient basis.

11 (b) If the defendant's disability is mental, the court may
12 order him placed for treatment in the custody of the
13 Department of Human Services, or the court may order him
14 placed in the custody of any other appropriate public or
15 private mental health facility or treatment program which has
16 agreed to provide treatment to the defendant. If the court
17 orders the defendant placed in the custody of the Department
18 of Human Services, the Department shall evaluate the defendant
19 to determine to which secure facility the defendant shall be
20 transported and, within 20 days of the transmittal by the
21 clerk of the circuit court of the placement court order,
22 notify the sheriff of the designated facility. Upon receipt of
23 that notice, the sheriff shall promptly transport the
24 defendant to the designated facility. If the defendant is
25 placed in the custody of the Department of Human Services, the

1 defendant shall be placed in a secure setting. During the
2 period of time required to determine the appropriate placement
3 the defendant shall remain in jail. If during the course of
4 evaluating the defendant for placement, the Department of
5 Human Services determines that the defendant is currently fit
6 to stand trial, it shall immediately notify the court and
7 shall submit a written report within 7 days. In that
8 circumstance the placement shall be held pending a court
9 hearing on the Department's report. Otherwise, upon completion
10 of the placement process, the sheriff shall be notified and
11 shall transport the defendant to the designated facility. If,
12 within 20 days of the transmittal by the clerk of the circuit
13 court of the placement court order, the Department fails to
14 notify the sheriff of the identity of the facility to which the
15 defendant shall be transported, the sheriff shall contact a
16 designated person within the Department to inquire about when
17 a placement will become available at the designated facility
18 and bed availability at other facilities. If, within 20 days
19 of the transmittal by the clerk of the circuit court of the
20 placement court order, the Department fails to notify the
21 sheriff of the identity of the facility to which the defendant
22 shall be transported, the sheriff shall notify the Department
23 of its intent to transfer the defendant to the nearest secure
24 mental health facility operated by the Department and inquire
25 as to the status of the placement evaluation and availability
26 for admission to such facility operated by the Department by

1 contacting a designated person within the Department. The
2 Department shall respond to the sheriff within 2 business days
3 of the notice and inquiry by the sheriff seeking the transfer
4 and the Department shall provide the sheriff with the status
5 of the evaluation, information on bed and placement
6 availability, and an estimated date of admission for the
7 defendant and any changes to that estimated date of admission.
8 If the Department notifies the sheriff during the 2 business
9 day period of a facility operated by the Department with
10 placement availability, the sheriff shall promptly transport
11 the defendant to that facility. The placement may be ordered
12 either on an inpatient or an outpatient basis.

13 (c) If the defendant's disability is physical, the court
14 may order him placed under the supervision of the Department
15 of Human Services which shall place and maintain the defendant
16 in a suitable treatment facility or program, or the court may
17 order him placed in an appropriate public or private facility
18 or treatment program which has agreed to provide treatment to
19 the defendant. The placement may be ordered either on an
20 inpatient or an outpatient basis.

21 (d) The clerk of the circuit court shall within 5 days of
22 the entry of the order transmit to the Department, agency or
23 institution, if any, to which the defendant is remanded for
24 treatment, the following:

25 (1) a certified copy of the order to undergo
26 treatment. Accompanying the certified copy of the order to

1 undergo treatment shall be the complete copy of any report
2 prepared under Section 104-15 of this Code or other report
3 prepared by a forensic examiner for the court;

4 (2) the county and municipality in which the offense
5 was committed;

6 (3) the county and municipality in which the arrest
7 took place;

8 (4) a copy of the arrest report, criminal charges,
9 arrest record; and

10 (5) all additional matters which the Court directs the
11 clerk to transmit.

12 (e) Within 30 days of entry of an order to undergo
13 treatment, the person supervising the defendant's treatment
14 shall file with the court, the State, and the defense a report
15 assessing the facility's or program's capacity to provide
16 appropriate treatment for the defendant and indicating his
17 opinion as to the probability of the defendant's attaining
18 fitness within a period of time from the date of the finding of
19 unfitness. For a defendant charged with a felony, the period
20 of time shall be one year. For a defendant charged with a
21 misdemeanor, the period of time shall be no longer than the
22 sentence if convicted of the most serious offense. If the
23 report indicates that there is a substantial probability that
24 the defendant will attain fitness within the time period, the
25 treatment supervisor shall also file a treatment plan which
26 shall include:

- 1 (1) A diagnosis of the defendant's disability;
- 2 (2) A description of treatment goals with respect to
3 rendering the defendant fit, a specification of the
4 proposed treatment modalities, and an estimated timetable
5 for attainment of the goals;
- 6 (3) An identification of the person in charge of
7 supervising the defendant's treatment.

8 (Source: P.A. 99-140, eff. 1-1-16; 100-27, eff. 1-1-18;
9 101-652.)

10 (725 ILCS 5/106D-1)

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

12 Sec. 106D-1. Defendant's appearance by closed circuit
13 television and video conference.

14 (a) Whenever the appearance in person in court, in either
15 a civil or criminal proceeding, is required of anyone held in a
16 place of custody or confinement operated by the State or any of
17 its political subdivisions, including counties and
18 municipalities, the chief judge of the circuit by rule may
19 permit the personal appearance to be made by means of two-way
20 audio-visual communication, including closed circuit
21 television and computerized video conference, in the following
22 proceedings:

23 (1) the initial appearance before a judge on a
24 criminal complaint, at which bail will be set;

25 (2) the waiver of a preliminary hearing;

1 (3) the arraignment on an information or indictment at
2 which a plea of not guilty will be entered;

3 (4) the presentation of a jury waiver;

4 (5) any status hearing;

5 (6) any hearing conducted under the Sexually Violent
6 Persons Commitment Act at which no witness testimony will
7 be taken; and

8 (7) at any hearing at which no witness testimony will
9 be taken conducted under the following:

10 (A) Section 104-20 of this Code (90-day hearings);

11 (B) Section 104-22 of this Code (trial with
12 special provisions and assistance);

13 (C) Section 104-25 of this Code (discharge
14 hearing); or

15 (D) Section 5-2-4 of the Unified Code of
16 Corrections (proceedings after acquittal by reason of
17 insanity).

18 (b) The two-way audio-visual communication facilities must
19 provide two-way audio-visual communication between the court
20 and the place of custody or confinement, and must include a
21 secure line over which the person in custody and his or her
22 counsel, if any, may communicate.

23 (c) Nothing in this Section shall be construed to prohibit
24 other court appearances through the use of two-way
25 audio-visual communication, upon waiver of any right the
26 person in custody or confinement may have to be present

1 physically.

2 (d) Nothing in this Section shall be construed to
3 establish a right of any person held in custody or confinement
4 to appear in court through two-way audio-visual communication
5 or to require that any governmental entity, or place of
6 custody or confinement, provide two-way audio-visual
7 communication.

8 (Source: P.A. 102-486, eff. 8-20-21.)

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

10 Sec. 106D-1. Defendant's appearance by closed circuit
11 television and video conference.

12 (a) Whenever the appearance in person in court, in either
13 a civil or criminal proceeding, is required of anyone held in a
14 place of custody or confinement operated by the State or any of
15 its political subdivisions, including counties and
16 municipalities, the chief judge of the circuit by rule may
17 permit the personal appearance to be made by means of two-way
18 audio-visual communication, including closed circuit
19 television and computerized video conference, in the following
20 proceedings:

21 (1) the initial appearance before a judge on a
22 criminal complaint, at which ~~the conditions of pretrial~~
23 ~~release~~ bail will be set;

24 (2) the waiver of a preliminary hearing;

25 (3) the arraignment on an information or indictment at

1 which a plea of not guilty will be entered;

2 (4) the presentation of a jury waiver;

3 (5) any status hearing;

4 (6) any hearing conducted under the Sexually Violent
5 Persons Commitment Act at which no witness testimony will
6 be taken; and

7 (7) at any hearing at which no witness testimony will
8 be taken conducted under the following:

9 (A) Section 104-20 of this Code (90-day hearings);

10 (B) Section 104-22 of this Code (trial with
11 special provisions and assistance);

12 (C) Section 104-25 of this Code (discharge
13 hearing); or

14 (D) Section 5-2-4 of the Unified Code of
15 Corrections (proceedings after acquittal by reason of
16 insanity).

17 (b) The two-way audio-visual communication facilities must
18 provide two-way audio-visual communication between the court
19 and the place of custody or confinement, and must include a
20 secure line over which the person in custody and his or her
21 counsel, if any, may communicate.

22 (c) Nothing in this Section shall be construed to prohibit
23 other court appearances through the use of two-way
24 audio-visual communication, upon waiver of any right the
25 person in custody or confinement may have to be present
26 physically.

1 (d) Nothing in this Section shall be construed to
2 establish a right of any person held in custody or confinement
3 to appear in court through two-way audio-visual communication
4 or to require that any governmental entity, or place of
5 custody or confinement, provide two-way audio-visual
6 communication.

7 (Source: P.A. 101-652, eff. 1-1-23; 102-486, eff. 8-20-21;
8 revised 10-12-21.)

9 (725 ILCS 5/107-4) (from Ch. 38, par. 107-4)

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

11 Sec. 107-4. Arrest by peace officer from other
12 jurisdiction.

13 (a) As used in this Section:

14 (1) "State" means any State of the United States and
15 the District of Columbia.

16 (2) "Peace Officer" means any peace officer or member
17 of any duly organized State, County, or Municipal peace
18 unit, any police force of another State, the United States
19 Department of Defense, or any police force whose members,
20 by statute, are granted and authorized to exercise powers
21 similar to those conferred upon any peace officer employed
22 by a law enforcement agency of this State.

23 (3) "Fresh pursuit" means the immediate pursuit of a
24 person who is endeavoring to avoid arrest.

25 (4) "Law enforcement agency" means a municipal police

1 department or county sheriff's office of this State.

2 (a-3) Any peace officer employed by a law enforcement
3 agency of this State may conduct temporary questioning
4 pursuant to Section 107-14 of this Code and may make arrests in
5 any jurisdiction within this State: (1) if the officer is
6 engaged in the investigation of criminal activity that
7 occurred in the officer's primary jurisdiction and the
8 temporary questioning or arrest relates to, arises from, or is
9 conducted pursuant to that investigation; or (2) if the
10 officer, while on duty as a peace officer, becomes personally
11 aware of the immediate commission of a felony or misdemeanor
12 violation of the laws of this State; or (3) if the officer,
13 while on duty as a peace officer, is requested by an
14 appropriate State or local law enforcement official to render
15 aid or assistance to the requesting law enforcement agency
16 that is outside the officer's primary jurisdiction; or (4) in
17 accordance with Section 2605-580 of the Illinois State Police
18 Law of the Civil Administrative Code of Illinois. While acting
19 pursuant to this subsection, an officer has the same authority
20 as within his or her own jurisdiction.

21 (a-7) The law enforcement agency of the county or
22 municipality in which any arrest is made under this Section
23 shall be immediately notified of the arrest.

24 (b) Any peace officer of another State who enters this
25 State in fresh pursuit and continues within this State in
26 fresh pursuit of a person in order to arrest him on the ground

1 that he has committed an offense in the other State has the
2 same authority to arrest and hold the person in custody as
3 peace officers of this State have to arrest and hold a person
4 in custody on the ground that he has committed an offense in
5 this State.

6 (c) If an arrest is made in this State by a peace officer
7 of another State in accordance with the provisions of this
8 Section he shall without unnecessary delay take the person
9 arrested before the circuit court of the county in which the
10 arrest was made. Such court shall conduct a hearing for the
11 purpose of determining the lawfulness of the arrest. If the
12 court determines that the arrest was lawful it shall commit
13 the person arrested, to await for a reasonable time the
14 issuance of an extradition warrant by the Governor of this
15 State, or admit him to bail for such purpose. If the court
16 determines that the arrest was unlawful it shall discharge the
17 person arrested.

18 (Source: P.A. 102-538, eff. 8-20-21.)

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

20 Sec. 107-4. Arrest by peace officer from other
21 jurisdiction.

22 (a) As used in this Section:

23 (1) "State" means any State of the United States and
24 the District of Columbia.

25 (2) "Peace Officer" means any peace officer or member

1 of any duly organized State, County, or Municipal peace
2 unit, any police force of another State, the United States
3 Department of Defense, or any police force whose members,
4 by statute, are granted and authorized to exercise powers
5 similar to those conferred upon any peace officer employed
6 by a law enforcement agency of this State.

7 (3) "Fresh pursuit" means the immediate pursuit of a
8 person who is endeavoring to avoid arrest.

9 (4) "Law enforcement agency" means a municipal police
10 department or county sheriff's office of this State.

11 (a-3) Any peace officer employed by a law enforcement
12 agency of this State may conduct temporary questioning
13 pursuant to Section 107-14 of this Code and may make arrests in
14 any jurisdiction within this State: (1) if the officer is
15 engaged in the investigation of criminal activity that
16 occurred in the officer's primary jurisdiction and the
17 temporary questioning or arrest relates to, arises from, or is
18 conducted pursuant to that investigation; or (2) if the
19 officer, while on duty as a peace officer, becomes personally
20 aware of the immediate commission of a felony or misdemeanor
21 violation of the laws of this State; or (3) if the officer,
22 while on duty as a peace officer, is requested by an
23 appropriate State or local law enforcement official to render
24 aid or assistance to the requesting law enforcement agency
25 that is outside the officer's primary jurisdiction; or (4) in
26 accordance with Section 2605-580 of the Illinois State Police

1 Law of the Civil Administrative Code of Illinois. While acting
2 pursuant to this subsection, an officer has the same authority
3 as within his or her own jurisdiction.

4 (a-7) The law enforcement agency of the county or
5 municipality in which any arrest is made under this Section
6 shall be immediately notified of the arrest.

7 (b) Any peace officer of another State who enters this
8 State in fresh pursuit and continues within this State in
9 fresh pursuit of a person in order to arrest him on the ground
10 that he has committed an offense in the other State has the
11 same authority to arrest and hold the person in custody as
12 peace officers of this State have to arrest and hold a person
13 in custody on the ground that he has committed an offense in
14 this State.

15 (c) If an arrest is made in this State by a peace officer
16 of another State in accordance with the provisions of this
17 Section he shall without unnecessary delay take the person
18 arrested before the circuit court of the county in which the
19 arrest was made. Such court shall conduct a hearing for the
20 purpose of determining the lawfulness of the arrest. If the
21 court determines that the arrest was lawful it shall commit
22 the person arrested, to await for a reasonable time the
23 issuance of an extradition warrant by the Governor of this
24 State, or admit him to ~~pretrial release~~ bail for such purpose.
25 If the court determines that the arrest was unlawful it shall
26 discharge the person arrested.

1 (Source: P.A. 101-652, eff. 1-1-23; 102-538, eff. 8-20-21;
2 revised 10-20-21.)

3 (725 ILCS 5/107-9) (from Ch. 38, par. 107-9)

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

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

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

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

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

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

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

18 (b-5) If an arrest warrant is sought and the request is
19 made by electronic means that has a simultaneous video and
20 audio transmission between the requester and a judge, the
21 judge may issue an arrest warrant based upon a sworn complaint
22 or sworn testimony communicated in the transmission.

23 (c) A warrant shall be issued by the court for the arrest
24 of the person complained against if it appears from the
25 contents of the complaint and the examination of the

1 complainant or other witnesses, if any, that the person
2 against whom the complaint was made has committed an offense.

3 (d) The warrant of arrest shall:

4 (1) Be in writing;

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

10 (3) Set forth the nature of the offense;

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

13 (5) Be signed by the judge of the court with the title
14 of his office;

15 (6) Command that the person against whom the complaint
16 was made be arrested and brought before the court issuing
17 the warrant or if he is absent or unable to act before the
18 nearest or most accessible court in the same county;

19 (7) Specify the ~~conditions of pretrial release~~ amount
20 of bail; and

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

24 (e) The warrant shall be directed to all peace officers in
25 the State. It shall be executed by the peace officer, or by a
26 private person specially named therein, at any location within

1 the geographic limitation for execution placed on the warrant.
2 If no geographic limitation is placed on the warrant, then it
3 may be executed anywhere in the State.

4 (f) The arrest warrant may be issued electronically or
5 electromagnetically by use of electronic mail or a facsimile
6 transmission machine and any arrest warrant shall have the
7 same validity as a written warrant.

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

9 (725 ILCS 5/109-1) (from Ch. 38, par. 109-1)

10 Sec. 109-1. Person arrested; ~~release from law enforcement~~
11 ~~custody and court appearance; geographical constraints prevent~~
12 ~~in-person appearances.~~

13 (a) A person arrested with or without a warrant ~~for an~~
14 ~~offense for which pretrial release may be denied under~~
15 ~~paragraphs (1) through (6) of Section 110-6.1~~ shall be taken
16 without unnecessary delay before the nearest and most
17 accessible judge in that county, except when such county is a
18 participant in a regional jail authority, in which event such
19 person may be taken to the nearest and most accessible judge,
20 irrespective of the county where such judge presides, and a
21 charge shall be filed. Whenever a person arrested either with
22 or without a warrant is required to be taken before a judge, a
23 charge may be filed against such person by way of a two-way
24 closed circuit television system, except that a hearing to
25 deny ~~pretrial release~~ bail to the defendant may not be

1 conducted by way of closed circuit television.

2 ~~(a-1) Law enforcement shall issue a citation in lieu of~~
3 ~~eustodial arrest, upon proper identification, for those~~
4 ~~accused of traffic and Class B and C criminal misdemeanor~~
5 ~~offenses, or of petty and business offenses, who pose no~~
6 ~~obvious threat to the community or any person, or who have no~~
7 ~~obvious medical or mental health issues that pose a risk to~~
8 ~~their own safety. Those released on citation shall be~~
9 ~~scheduled into court within 21 days.~~

10 ~~(a-3) A person arrested with or without a warrant for an~~
11 ~~offense for which pretrial release may not be denied may,~~
12 ~~except as otherwise provided in this Code, be released by the~~
13 ~~officer without appearing before a judge. The releasing~~
14 ~~officer shall issue the person a summons to appear within 21~~
15 ~~days. A presumption in favor of pretrial release shall be~~
16 ~~applied by an arresting officer in the exercise of his or her~~
17 ~~discretion under this Section.~~

18 (a-5) A person charged with an offense shall be allowed
19 counsel at the hearing at which ~~pretrial release~~ bail is
20 determined under Article 110 of this Code. If the defendant
21 desires counsel for his or her initial appearance but is
22 unable to obtain counsel, the court shall appoint a public
23 defender or licensed attorney at law of this State to
24 represent him or her for purposes of that hearing.

25 (b) ~~Upon initial appearance of a person before the court,~~
26 ~~the~~ The judge shall:

1 (1) ~~inform~~ Inform the defendant of the charge against
2 him and shall provide him with a copy of the charge;

3 (2) ~~advise~~ Advise the defendant of his right to
4 counsel and if indigent shall appoint a public defender or
5 licensed attorney at law of this State to represent him in
6 accordance with the provisions of Section 113-3 of this
7 Code;

8 (3) ~~schedule~~ Schedule a preliminary hearing in
9 appropriate cases;

10 (4) ~~admit~~ Admit the defendant to ~~pretrial release~~ bail
11 in accordance with the provisions of Article ~~110/5~~ 110 of
12 this Code, ~~or upon verified petition of the State, proceed~~
13 ~~with the setting of a detention hearing as provided in~~
14 ~~Section 110-6.1; and~~

15 (5) Order the confiscation of the person's passport or
16 impose travel restrictions on a defendant arrested for
17 first degree murder or other violent crime as defined in
18 Section 3 of the Rights of Crime Victims and Witnesses
19 Act, if the judge determines, based on the factors in
20 Section 110-5 of this Code, that this will reasonably
21 ensure the appearance of the defendant and compliance by
22 the defendant with all conditions of release.

23 (c) The court may issue an order of protection in
24 accordance with the provisions of Article 112A of this Code.
25 Crime victims shall be given notice by the State's Attorney's
26 office of this hearing as required in paragraph (2) of

1 subsection (b) of the Rights of Crime Victims and Witnesses
2 Act and shall be informed of their opportunity at this hearing
3 to obtain an order of protection under Article 112A of this
4 Code.

5 (d) At the initial appearance of a defendant in any
6 criminal proceeding, the court must advise the defendant in
7 open court that any foreign national who is arrested or
8 detained has the right to have notice of the arrest or
9 detention given to his or her country's consular
10 representatives and the right to communicate with those
11 consular representatives if the notice has not already been
12 provided. The court must make a written record of so advising
13 the defendant.

14 (e) If consular notification is not provided to a
15 defendant before his or her first appearance in court, the
16 court shall grant any reasonable request for a continuance of
17 the proceedings to allow contact with the defendant's
18 consulate. Any delay caused by the granting of the request by a
19 defendant shall temporarily suspend for the time of the delay
20 the period within which a person shall be tried as prescribed
21 by subsections (a), (b), or (e) of Section 103-5 of this Code
22 and on the day of the expiration of delay the period shall
23 continue at the point at which it was suspended.

24 ~~(f) At the hearing at which conditions of pretrial release~~
25 ~~are determined, the person charged shall be present in person~~
26 ~~rather than by video phone or any other form of electronic~~

1 ~~communication, unless the physical health and safety of the~~
2 ~~person would be endangered by appearing in court or the~~
3 ~~accused waives the right to be present in person.~~

4 ~~(g) Defense counsel shall be given adequate opportunity to~~
5 ~~confer with Defendant prior to any hearing in which conditions~~
6 ~~of release or the detention of the Defendant is to be~~
7 ~~considered, with a physical accommodation made to facilitate~~
8 ~~attorney/client consultation.~~

9 (Source: P.A. 99-78, eff. 7-20-15; 99-190, eff. 1-1-16; 100-1,
10 eff. 1-1-18; 101-652.)

11 (725 ILCS 5/109-2) (from Ch. 38, par. 109-2)

12 Sec. 109-2. Person arrested in another county. (a) Any
13 person arrested in a county other than the one in which a
14 warrant for his arrest was issued shall be taken without
15 unnecessary delay before the nearest and most accessible judge
16 in the county where the arrest was made or, if no additional
17 delay is created, before the nearest and most accessible judge
18 in the county from which the warrant was issued. ~~Upon arrival~~
19 ~~in the county in which the warrant was issued, the status of~~
20 ~~the arrested person's release status shall be determined by~~
21 ~~the release revocation process described in Section 110-6. He~~
22 shall be admitted to bail in the amount specified in the
23 warrant or, for offenses other than felonies, in an amount as
24 set by the judge, and such bail shall be conditioned on his
25 appearing in the court issuing the warrant on a certain date.

1 The judge may hold a hearing to determine if the defendant is
2 the same person as named in the warrant.

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

12 ~~(c) If a defendant is charged with a felony offense, but~~
13 ~~has a warrant in another county, the defendant shall be taken~~
14 ~~to the county that issued the warrant within 72 hours of the~~
15 ~~completion of condition or detention hearing, so that release~~
16 ~~or detention status can be resolved. This provision shall not~~
17 ~~apply to warrants issued outside of Illinois.~~

18 (Source: P.A. 86-298; 101-652.)

19 (725 ILCS 5/109-3) (from Ch. 38, par. 109-3)

20 Sec. 109-3. Preliminary examination.)

21 (a) The judge shall hold the defendant to answer to the
22 court having jurisdiction of the offense if from the evidence
23 it appears there is probable cause to believe an offense has
24 been committed by the defendant, as provided in Section
25 109-3.1 of this Code, if the offense is a felony.

1 (b) If the defendant waives preliminary examination the
2 judge shall hold him to answer and may, or on the demand of the
3 prosecuting attorney shall, cause the witnesses for the State
4 to be examined. After hearing the testimony if it appears that
5 there is not probable cause to believe the defendant guilty of
6 any offense the judge shall discharge him.

7 (c) During the examination of any witness or when the
8 defendant is making a statement or testifying the judge may
9 and on the request of the defendant or State shall exclude all
10 other witnesses. He may also cause the witnesses to be kept
11 separate and to be prevented from communicating with each
12 other until all are examined.

13 (d) If the defendant is held to answer the judge may
14 require any material witness for the State or defendant to
15 enter into a written undertaking to appear at the trial, and
16 may provide for the forfeiture of a sum certain in the event
17 the witness does not appear at the trial. Any witness who
18 refuses to execute a recognizance may be committed by the
19 judge to the custody of the sheriff until trial or further
20 order of the court having jurisdiction of the cause. Any
21 witness who executes a recognizance and fails to comply with
22 its terms shall, in addition to any forfeiture provided in the
23 recognizance, be subject to the penalty provided in Section
24 32-10 of the Criminal Code of 2012 for violation of ~~the~~
25 ~~conditions of pretrial release~~ bail bond.

26 (e) During preliminary hearing or examination the

1 defendant may move for an order of suppression of evidence
2 pursuant to Section 114-11 or 114-12 of this Act or for other
3 reasons, and may move for dismissal of the charge pursuant to
4 Section 114-1 of this Act or for other reasons.

5 (Source: P.A. 97-1150, eff. 1-25-13; 101-652.)

6 (725 ILCS 5/109-3.1) (from Ch. 38, par. 109-3.1)

7 Sec. 109-3.1. Persons Charged with Felonies. (a) In any
8 case involving a person charged with a felony in this State,
9 alleged to have been committed on or after January 1, 1984, the
10 provisions of this Section shall apply.

11 (b) Every person in custody in this State for the alleged
12 commission of a felony shall receive either a preliminary
13 examination as provided in Section 109-3 or an indictment by
14 Grand Jury as provided in Section 111-2, within 30 days from
15 the date he or she was taken into custody. Every person on
16 ~~pretrial release~~ bail or recognizance for the alleged
17 commission of a felony shall receive either a preliminary
18 examination as provided in Section 109-3 or an indictment by
19 Grand Jury as provided in Section 111-2, within 60 days from
20 the date he or she was arrested.

21 The provisions of this paragraph shall not apply in the
22 following situations:

23 (1) when delay is occasioned by the defendant; or

24 (2) when the defendant has been indicted by the Grand Jury
25 on the felony offense for which he or she was initially taken

1 into custody or on an offense arising from the same
2 transaction or conduct of the defendant that was the basis for
3 the felony offense or offenses initially charged; or

4 (3) when a competency examination is ordered by the court;
5 or

6 (4) when a competency hearing is held; or

7 (5) when an adjudication of incompetency for trial has
8 been made; or

9 (6) when the case has been continued by the court under
10 Section 114-4 of this Code after a determination that the
11 defendant is physically incompetent to stand trial.

12 (c) Delay occasioned by the defendant shall temporarily
13 suspend, for the time of the delay, the period within which the
14 preliminary examination must be held. On the day of expiration
15 of the delay the period in question shall continue at the point
16 at which it was suspended.

17 (Source: P.A. 83-644; 101-652.)

18 (725 ILCS 5/Art. 110 heading)

19 ARTICLE 110. ~~PRETRIAL RELEASE~~ BAIL

20 (725 ILCS 5/110-1) (from Ch. 38, par. 110-1)

21 Sec. 110-1. Definitions. (a) ~~(Blank)~~. "Security" is that
22 which is required to be pledged to insure the payment of bail.

23 (b) "Sureties" encompasses the monetary and nonmonetary
24 requirements set by the court as conditions for release either

1 before or after conviction. "Surety" is one who executes a
2 bail bond and binds himself to pay the bail if the person in
3 custody fails to comply with all conditions of the bail bond.

4 (c) The phrase "for which a sentence of imprisonment,
5 without conditional and revocable release, shall be imposed by
6 law as a consequence of conviction" means an offense for which
7 a sentence of imprisonment, without probation, periodic
8 imprisonment or conditional discharge, is required by law upon
9 conviction.

10 (d) ~~(Blank.)~~ "Real and present threat to the physical
11 safety of any person or persons", as used in this Article,
12 includes a threat to the community, person, persons or class
13 of persons.

14 ~~(e) Willful flight means planning or attempting to~~
15 ~~intentionally evade prosecution by concealing oneself. Simple~~
16 ~~past non appearance in court alone is not evidence of future~~
17 ~~intent to evade prosecution.~~

18 (Source: P.A. 85-892; 101-652.)

19 (725 ILCS 5/110-2) (from Ch. 38, par. 110-2)

20 Sec. 110-2. Release on own recognizance.

21 ~~(a) It is presumed that a defendant is entitled to release~~
22 ~~on personal recognizance on the condition that the defendant~~
23 ~~attend all required court proceedings and the defendant does~~
24 ~~not commit any criminal offense, and complies with all terms~~
25 ~~of pretrial release, including, but not limited to, orders of~~

1 ~~protection under both Section 112A-4 of this Code and Section~~
2 ~~214 of the Illinois Domestic Violence Act of 1986, all civil no~~
3 ~~contact orders, and all stalking no contact orders.~~

4 ~~(b) Additional conditions of release, including those~~
5 ~~highlighted above, shall be set only when it is determined~~
6 ~~that they are necessary to assure the defendant's appearance~~
7 ~~in court, assure the defendant does not commit any criminal~~
8 ~~offense, and complies with all conditions of pretrial release.~~

9 ~~(c) Detention only shall be imposed when it is determined~~
10 ~~that the defendant poses a specific, real and present threat~~
11 ~~to a person, or has a high likelihood of willful flight. If the~~
12 ~~court deems that the defendant is to be released on personal~~
13 ~~recognizance, the court may require that a written~~
14 ~~admonishment be signed by~~ When from all the circumstances the
15 court is of the opinion that the defendant will appear as
16 required either before or after conviction and the defendant
17 will not pose a danger to any person or the community and that
18 the defendant will comply with all conditions of bond, which
19 shall include the defendant's current address with a written
20 admonishment to the defendant ~~requiring~~ that he or she must
21 comply with the provisions of Section 110-12 of this Code
22 regarding any change in his or her address. ~~The,~~ the defendant
23 may be released on his or her own recognizance ~~upon signature.~~
24 The defendant's address shall at all times remain a matter of
25 public record with the clerk of the court. A failure to appear
26 as required by such recognizance shall constitute an offense

1 subject to the penalty provided in Section 32-10 of the
2 Criminal Code of 2012 for violation of the ~~conditions of~~
3 ~~pretrial release~~ bail bond, and any obligated sum fixed in the
4 recognizance shall be forfeited and collected in accordance
5 with subsection (g) of Section 110-7 of this Code.

6 ~~(d) If, after the procedures set out in Section 110-6.1,~~
7 ~~the court decides to detain the defendant, the Court must make~~
8 ~~a written finding as to why less restrictive conditions would~~
9 ~~not assure safety to the community and assure the defendant's~~
10 ~~appearance in court. At each subsequent appearance of the~~
11 ~~defendant before the Court, the judge must find that continued~~
12 ~~detention or the current set of conditions imposed are~~
13 ~~necessary to avoid the specific, real and present threat to~~
14 ~~any person or of willful flight from prosecution to continue~~
15 ~~detention of the defendant. The court is not required to be~~
16 ~~presented with new information or a change in circumstance to~~
17 ~~consider reconsidering pretrial detention on current~~
18 ~~conditions.~~

19 ~~(e)~~ This Section shall be liberally construed to
20 effectuate the purpose of relying upon contempt of court
21 proceedings or criminal sanctions instead of financial loss to
22 assure the appearance of the defendant, and that the defendant
23 will not pose a danger to any person or the community and that
24 the defendant will ~~not pose~~ comply with all conditions of
25 bond. Monetary bail should be set only when it is determined
26 that no other conditions of release will reasonably assure the

1 defendant's appearance in court, that the defendant does not
2 present a danger to any person or the community and that the
3 defendant will comply with all conditions of ~~pretrial release~~
4 bond.

5 The State may appeal any order permitting release by
6 personal recognizance.

7 (Source: P.A. 97-1150, eff. 1-25-13; 101-652.)

8 (725 ILCS 5/110-3) (from Ch. 38, par. 110-3)

9 Sec. 110-3. ~~Options for warrant alternatives~~ Issuance of
10 warrant.

11 ~~(a) Upon failure to comply with any condition of pretrial~~
12 ~~release~~ a bail bond or recognizance the court having
13 jurisdiction at the time of such failure may, ~~on its own motion~~
14 ~~or upon motion from the State, issue an order to show cause as~~
15 ~~to why he or she shall not be subject to revocation of pretrial~~
16 ~~release, or for sanctions, as provided in Section 110-6.~~
17 ~~Nothing in this Section prohibits the court from issuing a~~
18 ~~warrant under subsection (c) upon failure to comply with any~~
19 ~~condition of pretrial release or recognizance.~~

20 ~~(b) The order issued by the court shall state the facts~~
21 ~~alleged to constitute the hearing to show cause or otherwise~~
22 ~~why the person is subject to revocation of pretrial release. A~~
23 ~~certified copy of the order shall be served upon the person at~~
24 ~~least 48 hours in advance of the scheduled hearing.~~

25 ~~(c) If the person does not appear at the hearing to show~~

1 ~~cause or absconds, the court may,~~ in addition to any other
2 action provided by law, issue a warrant for the arrest of the
3 person at liberty on ~~pretrial release~~ bail or his own
4 recognizance. The contents of such a warrant shall be the same
5 as required for an arrest warrant issued upon complaint ~~and~~
6 ~~may modify any previously imposed conditions placed upon the~~
7 ~~person, rather than revoking pretrial release or issuing a~~
8 ~~warrant for the person in accordance with the requirements in~~
9 ~~subsections (d) and (e) of Section 110-5.~~ When a defendant is
10 at liberty on ~~pretrial release~~ bail or his own recognizance on
11 a felony charge and fails to appear in court as directed, the
12 court ~~may~~ shall issue a warrant for the arrest of such person
13 ~~after his or her failure to appear at the show for cause~~
14 ~~hearing as provided in this Section.~~ Such warrant shall be
15 noted with a directive to peace officers to arrest the person
16 and hold such person without ~~pretrial release~~ bail and to
17 deliver such person before the court for further proceedings.

18 ~~(d) If the order as described in Subsection B is issued, a~~
19 ~~failure to appear shall not be recorded until the Defendant~~
20 ~~fails to appear at the hearing to show cause. For the purpose~~
21 ~~of any risk assessment or future evaluation of risk of willful~~
22 ~~flight or risk of failure to appear, a non-appearance in court~~
23 ~~eured by an appearance at the hearing to show cause shall not~~
24 ~~be considered as evidence of future likelihood appearance in~~
25 ~~court.~~ A defendant who is arrested or surrenders within 30
26 days of the issuance of such warrant shall not be bailable in

1 the case in question unless he shows by the preponderance of
2 the evidence that his failure to appear was not intentional.

3 (Source: P.A. 86-298; 86-984; 86-1028; 101-652.)

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

5 Sec. 110-4. ~~Pretrial release~~ Bailable Offenses.

6 (a) ~~All persons charged with an offense shall be eligible~~
7 ~~for pretrial release before conviction. Pretrial release may~~
8 ~~only be denied when a person is charged with an offense listed~~
9 ~~in Section 110-6.1 or when the defendant has a high likelihood~~
10 ~~of willful flight, and after the court has held a hearing under~~
11 ~~Section 110-6.1. All persons shall be bailable before~~
12 conviction, except the following offenses where the proof is
13 evident or the presumption great that the defendant is guilty
14 of the offense: capital offenses; offenses for which a
15 sentence of life imprisonment may be imposed as a consequence
16 of conviction; felony offenses for which a sentence of
17 imprisonment, without conditional and revocable release, shall
18 be imposed by law as a consequence of conviction, where the
19 court after a hearing, determines that the release of the
20 defendant would pose a real and present threat to the physical
21 safety of any person or persons; stalking or aggravated
22 stalking, where the court, after a hearing, determines that
23 the release of the defendant would pose a real and present
24 threat to the physical safety of the alleged victim of the
25 offense and denial of bail is necessary to prevent fulfillment

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

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

26 (c) Where it is alleged that ~~pretrial~~ bail should be

1 denied to a person upon the grounds that the person presents a
2 real and present threat to the physical safety of any person or
3 persons, the burden of proof of such allegations shall be upon
4 the State.

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

9 (Source: P.A. 97-1150, eff. 1-25-13; 101-652.)

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

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

12 Sec. 110-5. Determining the amount of bail and conditions
13 of release.

14 (a) In determining the amount of monetary bail or
15 conditions of release, if any, which will reasonably assure
16 the appearance of a defendant as required or the safety of any
17 other person or the community and the likelihood of compliance
18 by the defendant with all the conditions of bail, the court
19 shall, on the basis of available information, take into
20 account such matters as the nature and circumstances of the
21 offense charged, whether the evidence shows that as part of
22 the offense there was a use of violence or threatened use of
23 violence, whether the offense involved corruption of public
24 officials or employees, whether there was physical harm or
25 threats of physical harm to any public official, public

1 employee, judge, prosecutor, juror or witness, senior citizen,
2 child, or person with a disability, whether evidence shows
3 that during the offense or during the arrest the defendant
4 possessed or used a firearm, machine gun, explosive or metal
5 piercing ammunition or explosive bomb device or any military
6 or paramilitary armament, whether the evidence shows that the
7 offense committed was related to or in furtherance of the
8 criminal activities of an organized gang or was motivated by
9 the defendant's membership in or allegiance to an organized
10 gang, the condition of the victim, any written statement
11 submitted by the victim or proffer or representation by the
12 State regarding the impact which the alleged criminal conduct
13 has had on the victim and the victim's concern, if any, with
14 further contact with the defendant if released on bail,
15 whether the offense was based on racial, religious, sexual
16 orientation or ethnic hatred, the likelihood of the filing of
17 a greater charge, the likelihood of conviction, the sentence
18 applicable upon conviction, the weight of the evidence against
19 such defendant, whether there exists motivation or ability to
20 flee, whether there is any verification as to prior residence,
21 education, or family ties in the local jurisdiction, in
22 another county, state or foreign country, the defendant's
23 employment, financial resources, character and mental
24 condition, past conduct, prior use of alias names or dates of
25 birth, and length of residence in the community, the consent
26 of the defendant to periodic drug testing in accordance with

1 Section 110-6.5, whether a foreign national defendant is
2 lawfully admitted in the United States of America, whether the
3 government of the foreign national maintains an extradition
4 treaty with the United States by which the foreign government
5 will extradite to the United States its national for a trial
6 for a crime allegedly committed in the United States, whether
7 the defendant is currently subject to deportation or exclusion
8 under the immigration laws of the United States, whether the
9 defendant, although a United States citizen, is considered
10 under the law of any foreign state a national of that state for
11 the purposes of extradition or non-extradition to the United
12 States, the amount of unrecovered proceeds lost as a result of
13 the alleged offense, the source of bail funds tendered or
14 sought to be tendered for bail, whether from the totality of
15 the court's consideration, the loss of funds posted or sought
16 to be posted for bail will not deter the defendant from flight,
17 whether the evidence shows that the defendant is engaged in
18 significant possession, manufacture, or delivery of a
19 controlled substance or cannabis, either individually or in
20 consort with others, whether at the time of the offense
21 charged he or she was on bond or pre-trial release pending
22 trial, probation, periodic imprisonment or conditional
23 discharge pursuant to this Code or the comparable Code of any
24 other state or federal jurisdiction, whether the defendant is
25 on bond or pre-trial release pending the imposition or
26 execution of sentence or appeal of sentence for any offense

1 under the laws of Illinois or any other state or federal
2 jurisdiction, whether the defendant is under parole, aftercare
3 release, mandatory supervised release, or work release from
4 the Illinois Department of Corrections or Illinois Department
5 of Juvenile Justice or any penal institution or corrections
6 department of any state or federal jurisdiction, the
7 defendant's record of convictions, whether the defendant has
8 been convicted of a misdemeanor or ordinance offense in
9 Illinois or similar offense in other state or federal
10 jurisdiction within the 10 years preceding the current charge
11 or convicted of a felony in Illinois, whether the defendant
12 was convicted of an offense in another state or federal
13 jurisdiction that would be a felony if committed in Illinois
14 within the 20 years preceding the current charge or has been
15 convicted of such felony and released from the penitentiary
16 within 20 years preceding the current charge if a penitentiary
17 sentence was imposed in Illinois or other state or federal
18 jurisdiction, the defendant's records of juvenile adjudication
19 of delinquency in any jurisdiction, any record of appearance
20 or failure to appear by the defendant at court proceedings,
21 whether there was flight to avoid arrest or prosecution,
22 whether the defendant escaped or attempted to escape to avoid
23 arrest, whether the defendant refused to identify himself or
24 herself, or whether there was a refusal by the defendant to be
25 fingerprinted as required by law. Information used by the
26 court in its findings or stated in or offered in connection

1 with this Section may be by way of proffer based upon reliable
2 information offered by the State or defendant. All evidence
3 shall be admissible if it is relevant and reliable regardless
4 of whether it would be admissible under the rules of evidence
5 applicable at criminal trials. If the State presents evidence
6 that the offense committed by the defendant was related to or
7 in furtherance of the criminal activities of an organized gang
8 or was motivated by the defendant's membership in or
9 allegiance to an organized gang, and if the court determines
10 that the evidence may be substantiated, the court shall
11 prohibit the defendant from associating with other members of
12 the organized gang as a condition of bail or release. For the
13 purposes of this Section, "organized gang" has the meaning
14 ascribed to it in Section 10 of the Illinois Streetgang
15 Terrorism Omnibus Prevention Act.

16 (a-5) There shall be a presumption that any conditions of
17 release imposed shall be non-monetary in nature and the court
18 shall impose the least restrictive conditions or combination
19 of conditions necessary to reasonably assure the appearance of
20 the defendant for further court proceedings and protect the
21 integrity of the judicial proceedings from a specific threat
22 to a witness or participant. Conditions of release may
23 include, but not be limited to, electronic home monitoring,
24 curfews, drug counseling, stay-away orders, and in-person
25 reporting. The court shall consider the defendant's
26 socio-economic circumstance when setting conditions of release

1 or imposing monetary bail.

2 (b) The amount of bail shall be:

3 (1) Sufficient to assure compliance with the
4 conditions set forth in the bail bond, which shall include
5 the defendant's current address with a written
6 admonishment to the defendant that he or she must comply
7 with the provisions of Section 110-12 regarding any change
8 in his or her address. The defendant's address shall at
9 all times remain a matter of public record with the clerk
10 of the court.

11 (2) Not oppressive.

12 (3) Considerate of the financial ability of the
13 accused.

14 (4) When a person is charged with a drug related
15 offense involving possession or delivery of cannabis or
16 possession or delivery of a controlled substance as
17 defined in the Cannabis Control Act, the Illinois
18 Controlled Substances Act, or the Methamphetamine Control
19 and Community Protection Act, the full street value of the
20 drugs seized shall be considered. "Street value" shall be
21 determined by the court on the basis of a proffer by the
22 State based upon reliable information of a law enforcement
23 official contained in a written report as to the amount
24 seized and such proffer may be used by the court as to the
25 current street value of the smallest unit of the drug
26 seized.

1 (b-5) Upon the filing of a written request demonstrating
2 reasonable cause, the State's Attorney may request a source of
3 bail hearing either before or after the posting of any funds.
4 If the hearing is granted, before the posting of any bail, the
5 accused must file a written notice requesting that the court
6 conduct a source of bail hearing. The notice must be
7 accompanied by justifying affidavits stating the legitimate
8 and lawful source of funds for bail. At the hearing, the court
9 shall inquire into any matters stated in any justifying
10 affidavits, and may also inquire into matters appropriate to
11 the determination which shall include, but are not limited to,
12 the following:

13 (1) the background, character, reputation, and
14 relationship to the accused of any surety; and

15 (2) the source of any money or property deposited by
16 any surety, and whether any such money or property
17 constitutes the fruits of criminal or unlawful conduct;
18 and

19 (3) the source of any money posted as cash bail, and
20 whether any such money constitutes the fruits of criminal
21 or unlawful conduct; and

22 (4) the background, character, reputation, and
23 relationship to the accused of the person posting cash
24 bail.

25 Upon setting the hearing, the court shall examine, under
26 oath, any persons who may possess material information.

1 The State's Attorney has a right to attend the hearing, to
2 call witnesses and to examine any witness in the proceeding.
3 The court shall, upon request of the State's Attorney,
4 continue the proceedings for a reasonable period to allow the
5 State's Attorney to investigate the matter raised in any
6 testimony or affidavit. If the hearing is granted after the
7 accused has posted bail, the court shall conduct a hearing
8 consistent with this subsection (b-5). At the conclusion of
9 the hearing, the court must issue an order either approving or
10 ~~of~~ disapproving the bail.

11 (c) When a person is charged with an offense punishable by
12 fine only the amount of the bail shall not exceed double the
13 amount of the maximum penalty.

14 (d) When a person has been convicted of an offense and only
15 a fine has been imposed the amount of the bail shall not exceed
16 double the amount of the fine.

17 (e) The State may appeal any order granting bail or
18 setting a given amount for bail.

19 (f) When a person is charged with a violation of an order
20 of protection under Section 12-3.4 or 12-30 of the Criminal
21 Code of 1961 or the Criminal Code of 2012 or when a person is
22 charged with domestic battery, aggravated domestic battery,
23 kidnapping, aggravated kidnaping, unlawful restraint,
24 aggravated unlawful restraint, stalking, aggravated stalking,
25 cyberstalking, harassment by telephone, harassment through
26 electronic communications, or an attempt to commit first

1 degree murder committed against an intimate partner regardless
2 whether an order of protection has been issued against the
3 person,

4 (1) whether the alleged incident involved harassment
5 or abuse, as defined in the Illinois Domestic Violence Act
6 of 1986;

7 (2) whether the person has a history of domestic
8 violence, as defined in the Illinois Domestic Violence
9 Act, or a history of other criminal acts;

10 (3) based on the mental health of the person;

11 (4) whether the person has a history of violating the
12 orders of any court or governmental entity;

13 (5) whether the person has been, or is, potentially a
14 threat to any other person;

15 (6) whether the person has access to deadly weapons or
16 a history of using deadly weapons;

17 (7) whether the person has a history of abusing
18 alcohol or any controlled substance;

19 (8) based on the severity of the alleged incident that
20 is the basis of the alleged offense, including, but not
21 limited to, the duration of the current incident, and
22 whether the alleged incident involved the use of a weapon,
23 physical injury, sexual assault, strangulation, abuse
24 during the alleged victim's pregnancy, abuse of pets, or
25 forcible entry to gain access to the alleged victim;

26 (9) whether a separation of the person from the

1 alleged victim or a termination of the relationship
2 between the person and the alleged victim has recently
3 occurred or is pending;

4 (10) whether the person has exhibited obsessive or
5 controlling behaviors toward the alleged victim,
6 including, but not limited to, stalking, surveillance, or
7 isolation of the alleged victim or victim's family member
8 or members;

9 (11) whether the person has expressed suicidal or
10 homicidal ideations;

11 (12) based on any information contained in the
12 complaint and any police reports, affidavits, or other
13 documents accompanying the complaint,

14 the court may, in its discretion, order the respondent to
15 undergo a risk assessment evaluation using a recognized,
16 evidence-based instrument conducted by an Illinois Department
17 of Human Services approved partner abuse intervention program
18 provider, pretrial service, probation, or parole agency. These
19 agencies shall have access to summaries of the defendant's
20 criminal history, which shall not include victim interviews or
21 information, for the risk evaluation. Based on the information
22 collected from the 12 points to be considered at a bail hearing
23 under this subsection (f), the results of any risk evaluation
24 conducted and the other circumstances of the violation, the
25 court may order that the person, as a condition of bail, be
26 placed under electronic surveillance as provided in Section

1 5-8A-7 of the Unified Code of Corrections. Upon making a
2 determination whether or not to order the respondent to
3 undergo a risk assessment evaluation or to be placed under
4 electronic surveillance and risk assessment, the court shall
5 document in the record the court's reasons for making those
6 determinations. The cost of the electronic surveillance and
7 risk assessment shall be paid by, or on behalf, of the
8 defendant. As used in this subsection (f), "intimate partner"
9 means a spouse or a current or former partner in a cohabitation
10 or dating relationship.

11 (Source: P.A. 99-143, eff. 7-27-15; 100-1, eff. 1-1-18;
12 revised 7-12-19.)

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

14 Sec. 110-5. Determining the amount of bail and conditions
15 of release.

16 (a) In determining ~~which~~ the amount of monetary bail or
17 conditions of ~~pretrial~~ release, if any, which will reasonably
18 assure the appearance of a defendant as required or the safety
19 of any other person or the community and the likelihood of
20 compliance by the defendant with all the conditions of
21 ~~pretrial-release~~ bail, the court shall, on the basis of
22 available information, take into account such matters as~~+~~

23 ~~(1)~~ the nature and circumstances of the offense
24 charged~~+~~

25 ~~(2) the weight of the evidence against the eligible~~

1 ~~defendant, except that the court may consider the~~
2 ~~admissibility of any evidence sought to be excluded;~~

3 ~~(3) the history and characteristics of the eligible~~
4 ~~defendant, including:~~

5 ~~(A) the eligible defendant's character, physical~~
6 ~~and mental condition, family ties, employment,~~
7 ~~financial resources, length of residence in the~~
8 ~~community, community ties, past relating to drug or~~
9 ~~alcohol abuse, conduct, history criminal history, and~~
10 ~~record concerning appearance at court proceedings; and~~

11 ~~(B) whether, at the time of the current offense or~~
12 ~~arrest, the eligible defendant was on probation,~~
13 ~~parole, or on other release pending trial, sentencing,~~
14 ~~appeal, or completion of sentence for an offense under~~
15 ~~federal law, or the law of this or any other state;~~

16 ~~(4) the nature and seriousness of the specific, real~~
17 ~~and present threat to any person that would be posed by the~~
18 ~~eligible defendant's release, if applicable; as required~~
19 ~~under paragraph (7.5) of Section 4 of the Rights of Crime~~
20 ~~Victims and Witnesses Act; and~~

21 ~~(5) the nature and seriousness of the risk of~~
22 ~~obstructing or attempting to obstruct the criminal justice~~
23 ~~process that would be posed by the eligible defendant's~~
24 ~~release, if applicable.~~

25 ~~(b) The court shall impose any conditions that are~~
26 ~~mandatory under Section 110 10. The court may impose any~~

1 ~~conditions that are permissible under Section 110-10., whether~~
2 the evidence shows that as part of the offense there was a use
3 of violence or threatened use of violence, whether the offense
4 involved corruption of public officials or employees, whether
5 there was physical harm or threats of physical harm to any
6 public official, public employee, judge, prosecutor, juror or
7 witness, senior citizen, child, or person with a disability,
8 whether evidence shows that during the offense or during the
9 arrest the defendant possessed or used a firearm, machine gun,
10 explosive or metal piercing ammunition or explosive bomb
11 device or any military or paramilitary armament, whether the
12 evidence shows that the offense committed was related to or in
13 furtherance of the criminal activities of an organized gang or
14 was motivated by the defendant's membership in or allegiance
15 to an organized gang, the condition of the victim, any written
16 statement submitted by the victim or proffer or representation
17 by the State regarding the impact which the alleged criminal
18 conduct has had on the victim and the victim's concern, if any,
19 with further contact with the defendant if released on bail,
20 whether the offense was based on racial, religious, sexual
21 orientation or ethnic hatred, the likelihood of the filing of
22 a greater charge, the likelihood of conviction, the sentence
23 applicable upon conviction, the weight of the evidence against
24 such defendant, whether there exists motivation or ability to
25 flee, whether there is any verification as to prior residence,
26 education, or family ties in the local jurisdiction, in

1 another county, state or foreign country, the defendant's
2 employment, financial resources, character and mental
3 condition, past conduct, prior use of alias names or dates of
4 birth, and length of residence in the community, the consent
5 of the defendant to periodic drug testing in accordance with
6 Section 110-6.5, whether a foreign national defendant is
7 lawfully admitted in the United States of America, whether the
8 government of the foreign national maintains an extradition
9 treaty with the United States by which the foreign government
10 will extradite to the United States its national for a trial
11 for a crime allegedly committed in the United States, whether
12 the defendant is currently subject to deportation or exclusion
13 under the immigration laws of the United States, whether the
14 defendant, although a United States citizen, is considered
15 under the law of any foreign state a national of that state for
16 the purposes of extradition or non-extradition to the United
17 States, the amount of unrecovered proceeds lost as a result of
18 the alleged offense, the source of bail funds tendered or
19 sought to be tendered for bail, whether from the totality of
20 the court's consideration, the loss of funds posted or sought
21 to be posted for bail will not deter the defendant from flight,
22 whether the evidence shows that the defendant is engaged in
23 significant possession, manufacture, or delivery of a
24 controlled substance or cannabis, either individually or in
25 consort with others, whether at the time of the offense
26 charged he or she was on bond or pre-trial release pending

1 trial, probation, periodic imprisonment or conditional
2 discharge pursuant to this Code or the comparable Code of any
3 other state or federal jurisdiction, whether the defendant is
4 on bond or pre-trial release pending the imposition or
5 execution of sentence or appeal of sentence for any offense
6 under the laws of Illinois or any other state or federal
7 jurisdiction, whether the defendant is under parole, aftercare
8 release, mandatory supervised release, or work release from
9 the Illinois Department of Corrections or Illinois Department
10 of Juvenile Justice or any penal institution or corrections
11 department of any state or federal jurisdiction, the
12 defendant's record of convictions, whether the defendant has
13 been convicted of a misdemeanor or ordinance offense in
14 Illinois or similar offense in other state or federal
15 jurisdiction within the 10 years preceding the current charge
16 or convicted of a felony in Illinois, whether the defendant
17 was convicted of an offense in another state or federal
18 jurisdiction that would be a felony if committed in Illinois
19 within the 20 years preceding the current charge or has been
20 convicted of such felony and released from the penitentiary
21 within 20 years preceding the current charge if a penitentiary
22 sentence was imposed in Illinois or other state or federal
23 jurisdiction, the defendant's records of juvenile adjudication
24 of delinquency in any jurisdiction, any record of appearance
25 or failure to appear by the defendant at court proceedings,
26 whether there was flight to avoid arrest or prosecution,

1 whether the defendant escaped or attempted to escape to avoid
2 arrest, whether the defendant refused to identify himself or
3 herself, or whether there was a refusal by the defendant to be
4 fingerprinted as required by law. Information used by the
5 court in its findings or stated in or offered in connection
6 with this Section may be by way of proffer based upon reliable
7 information offered by the State or defendant. All evidence
8 shall be admissible if it is relevant and reliable regardless
9 of whether it would be admissible under the rules of evidence
10 applicable at criminal trials. If the State presents evidence
11 that the offense committed by the defendant was related to or
12 in furtherance of the criminal activities of an organized gang
13 or was motivated by the defendant's membership in or
14 allegiance to an organized gang, and if the court determines
15 that the evidence may be substantiated, the court shall
16 prohibit the defendant from associating with other members of
17 the organized gang as a condition of bail or release. For the
18 purposes of this Section, "organized gang" has the meaning
19 ascribed to it in Section 10 of the Illinois Streetgang
20 Terrorism Omnibus Prevention Act.

21 (a-5) There shall be a presumption that any conditions of
22 release imposed shall be non-monetary in nature and the court
23 shall impose the least restrictive conditions or combination
24 of conditions necessary to reasonably assure the appearance of
25 the defendant for further court proceedings and protect the
26 integrity of the judicial proceedings from a specific threat

1 to a witness or participant. Conditions of release may
2 include, but not be limited to, electronic home monitoring,
3 curfews, drug counseling, stay-away orders, and in-person
4 reporting. The court shall consider the defendant's
5 socio-economic circumstance when setting conditions of release
6 or imposing monetary bail.

7 (b) The amount of bail shall be:

8 (1) Sufficient to assure compliance with the
9 conditions set forth in the bail bond, which shall include
10 the defendant's current address with a written
11 admonishment to the defendant that he or she must comply
12 with the provisions of Section 110-12 regarding any change
13 in his or her address. The defendant's address shall at
14 all times remain a matter of public record with the clerk
15 of the court.

16 (2) Not oppressive.

17 (3) Considerate of the financial ability of the
18 accused.

19 (4) When a person is charged with a drug related
20 offense involving possession or delivery of cannabis or
21 possession or delivery of a controlled substance as
22 defined in the Cannabis Control Act, the Illinois
23 Controlled Substances Act, or the Methamphetamine Control
24 and Community Protection Act, the full street value of the
25 drugs seized shall be considered. "Street value" shall be
26 determined by the court on the basis of a proffer by the

1 State based upon reliable information of a law enforcement
2 official contained in a written report as to the amount
3 seized and such proffer may be used by the court as to the
4 current street value of the smallest unit of the drug
5 seized.

6 (b-5) Upon the filing of a written request demonstrating
7 reasonable cause, the State's Attorney may request a source of
8 bail hearing either before or after the posting of any funds.
9 If the hearing is granted, before the posting of any bail, the
10 accused must file a written notice requesting that the court
11 conduct a source of bail hearing. The notice must be
12 accompanied by justifying affidavits stating the legitimate
13 and lawful source of funds for bail. At the hearing, the court
14 shall inquire into any matters stated in any justifying
15 affidavits, and may also inquire into matters appropriate to
16 the determination which shall include, but are not limited to,
17 the following:

18 (1) the background, character, reputation, and
19 relationship to the accused of any surety; and

20 (2) the source of any money or property deposited by
21 any surety, and whether any such money or property
22 constitutes the fruits of criminal or unlawful conduct;
23 and

24 (3) the source of any money posted as cash bail, and
25 whether any such money constitutes the fruits of criminal
26 or unlawful conduct; and

1 (4) the background, character, reputation, and
2 relationship to the accused of the person posting cash
3 bail.

4 Upon setting the hearing, the court shall examine, under
5 oath, any persons who may possess material information.

6 The State's Attorney has a right to attend the hearing, to
7 call witnesses and to examine any witness in the proceeding.
8 The court shall, upon request of the State's Attorney,
9 continue the proceedings for a reasonable period to allow the
10 State's Attorney to investigate the matter raised in any
11 testimony or affidavit. If the hearing is granted after the
12 accused has posted bail, the court shall conduct a hearing
13 consistent with this subsection (b-5). At the conclusion of
14 the hearing, the court must issue an order either approving of
15 disapproving the bail.

16 (c) When a person is charged with an offense punishable by
17 fine only the amount of the bail shall not exceed double the
18 amount of the maximum penalty.

19 (d) When a person has been convicted of an offense and only
20 a fine has been imposed the amount of the bail shall not exceed
21 double the amount of the fine.

22 (e) The State may appeal any order granting bail or
23 setting a given amount for bail.

24 (f) ~~(b)~~ When a person is charged with a violation of an
25 order of protection under Section 12-3.4 or 12-30 of the
26 Criminal Code of 1961 or the Criminal Code of 2012 or when a

1 person is charged with domestic battery, aggravated domestic
2 battery, kidnapping, aggravated kidnaping, unlawful restraint,
3 aggravated unlawful restraint, stalking, aggravated stalking,
4 cyberstalking, harassment by telephone, harassment through
5 electronic communications, or an attempt to commit first
6 degree murder committed against an intimate partner regardless
7 whether an order of protection has been issued against the
8 person,

9 (1) whether the alleged incident involved harassment
10 or abuse, as defined in the Illinois Domestic Violence Act
11 of 1986;

12 (2) whether the person has a history of domestic
13 violence, as defined in the Illinois Domestic Violence
14 Act, or a history of other criminal acts;

15 (3) based on the mental health of the person;

16 (4) whether the person has a history of violating the
17 orders of any court or governmental entity;

18 (5) whether the person has been, or is, potentially a
19 threat to any other person;

20 (6) whether the person has access to deadly weapons or
21 a history of using deadly weapons;

22 (7) whether the person has a history of abusing
23 alcohol or any controlled substance;

24 (8) based on the severity of the alleged incident that
25 is the basis of the alleged offense, including, but not
26 limited to, the duration of the current incident, and

1 whether the alleged incident involved the use of a weapon,
2 physical injury, sexual assault, strangulation, abuse
3 during the alleged victim's pregnancy, abuse of pets, or
4 forcible entry to gain access to the alleged victim;

5 (9) whether a separation of the person from the ~~victim~~
6 ~~of abuse~~ alleged victim or a termination of the
7 relationship between the person and the ~~victim of abuse~~
8 alleged victim has recently occurred or is pending;

9 (10) whether the person has exhibited obsessive or
10 controlling behaviors toward the ~~victim of abuse~~ alleged
11 victim, including, but not limited to, stalking,
12 surveillance, or isolation of the ~~victim of abuse~~ alleged
13 victim or victim's family member or members;

14 (11) whether the person has expressed suicidal or
15 homicidal ideations;

16 ~~(11.5) any other factors deemed by the court to have a~~
17 ~~reasonable bearing upon the defendant's propensity or~~
18 ~~reputation for violent, abusive or assaultive behavior, or~~
19 ~~lack of that behavior~~

20 (12) based on any information contained in the
21 complaint and any police reports, affidavits, or other
22 documents accompanying the complaint,
23 the court may, in its discretion, order the respondent to
24 undergo a risk assessment evaluation using a recognized,
25 evidence-based instrument conducted by an Illinois Department
26 of Human Services approved partner abuse intervention program

1 provider, pretrial service, probation, or parole agency. These
2 agencies shall have access to summaries of the defendant's
3 criminal history, which shall not include victim interviews or
4 information, for the risk evaluation. Based on the information
5 collected from the 12 points to be considered at a bail hearing
6 under this subsection (f), the results of any risk evaluation
7 conducted and the other circumstances of the violation, the
8 court may order that the person, as a condition of bail, be
9 placed under electronic surveillance as provided in Section
10 5-8A-7 of the Unified Code of Corrections. Upon making a
11 determination whether or not to order the respondent to
12 undergo a risk assessment evaluation or to be placed under
13 electronic surveillance and risk assessment, the court shall
14 document in the record the court's reasons for making those
15 determinations. The cost of the electronic surveillance and
16 risk assessment shall be paid by, or on behalf, of the
17 defendant. As used in this subsection (f), "intimate partner"
18 means a spouse or a current or former partner in a cohabitation
19 or dating relationship.

20 ~~(e) In cases of stalking or aggravated stalking under~~
21 ~~Section 12-7.3 or 12-7.4 of the Criminal Code of 2012, the~~
22 ~~court may consider the following additional factors:~~

23 ~~(1) Any evidence of the defendant's prior criminal~~
24 ~~history indicative of violent, abusive or assaultive~~
25 ~~behavior, or lack of that behavior. The evidence may~~
26 ~~include testimony or documents received in juvenile~~

1 ~~proceedings, criminal, quasi-criminal, civil commitment,~~
2 ~~domestic relations or other proceedings;~~

3 ~~(2) Any evidence of the defendant's psychological,~~
4 ~~psychiatric or other similar social history that tends to~~
5 ~~indicate a violent, abusive, or assaultive nature, or lack~~
6 ~~of any such history.~~

7 ~~(3) The nature of the threat which is the basis of the~~
8 ~~charge against the defendant;~~

9 ~~(4) Any statements made by, or attributed to the~~
10 ~~defendant, together with the circumstances surrounding~~
11 ~~them;~~

12 ~~(5) The age and physical condition of any person~~
13 ~~allegedly assaulted by the defendant;~~

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

16 ~~(7) Any other factors deemed by the court to have a~~
17 ~~reasonable bearing upon the defendant's propensity or~~
18 ~~reputation for violent, abusive or assaultive behavior, or~~
19 ~~lack of that behavior.~~

20 ~~(d) The Court may use a regularly validated risk~~
21 ~~assessment tool to aid its determination of appropriate~~
22 ~~conditions of release as provided for in Section 110-6.4. Risk~~
23 ~~assessment tools may not be used as the sole basis to deny~~
24 ~~pretrial release. If a risk assessment tool is used, the~~
25 ~~defendant's counsel shall be provided with the information and~~
26 ~~scoring system of the risk assessment tool used to arrive at~~

1 ~~the determination. The defendant retains the right to~~
2 ~~challenge the validity of a risk assessment tool used by the~~
3 ~~court and to present evidence relevant to the defendant's~~
4 ~~challenge.~~

5 ~~(c) If a person remains in pretrial detention after his or~~
6 ~~her pretrial conditions hearing after having been ordered~~
7 ~~released with pretrial conditions, the court shall hold a~~
8 ~~hearing to determine the reason for continued detention. If~~
9 ~~the reason for continued detention is due to the~~
10 ~~unavailability or the defendant's ineligibility for one or~~
11 ~~more pretrial conditions previously ordered by the court or~~
12 ~~directed by a pretrial services agency, the court shall reopen~~
13 ~~the conditions of release hearing to determine what available~~
14 ~~pretrial conditions exist that will reasonably assure the~~
15 ~~appearance of a defendant as required or the safety of any~~
16 ~~other person and the likelihood of compliance by the defendant~~
17 ~~with all the conditions of pretrial release. The inability of~~
18 ~~Defendant to pay for a condition of release or any other~~
19 ~~ineligibility for a condition of pretrial release shall not be~~
20 ~~used as a justification for the pretrial detention of that~~
21 ~~Defendant.~~

22 ~~(f) Prior to the defendant's first appearance, the Court~~
23 ~~shall appoint the public defender or a licensed attorney at~~
24 ~~law of this State to represent the Defendant for purposes of~~
25 ~~that hearing, unless the defendant has obtained licensed~~
26 ~~counsel for themselves.~~

1 ~~(g) Electronic monitoring, GPS monitoring, or home~~
2 ~~confinement can only be imposed condition of pretrial release~~
3 ~~if a no less restrictive condition of release or combination~~
4 ~~of less restrictive condition of release would reasonably~~
5 ~~ensure the appearance of the defendant for later hearings or~~
6 ~~protect an identifiable person or persons from imminent threat~~
7 ~~of serious physical harm.~~

8 ~~(h) If the court imposes electronic monitoring, GPS~~
9 ~~monitoring, or home confinement the court shall set forth in~~
10 ~~the record the basis for its finding. A defendant shall be~~
11 ~~given custodial credit for each day he or she was subjected to~~
12 ~~that program, at the same rate described in subsection (b) of~~
13 ~~Section 5-4.5-100 of the unified code of correction.~~

14 ~~(i) If electronic monitoring, GPS monitoring, or home~~
15 ~~confinement is imposed, the court shall determine every 60~~
16 ~~days if no less restrictive condition of release or~~
17 ~~combination of less restrictive conditions of release would~~
18 ~~reasonably ensure the appearance, or continued appearance, of~~
19 ~~the defendant for later hearings or protect an identifiable~~
20 ~~person or persons from imminent threat of serious physical~~
21 ~~harm. If the court finds that there are less restrictive~~
22 ~~conditions of release, the court shall order that the~~
23 ~~condition be removed.~~

24 (g) ~~(j)~~ Crime Victims shall be given notice by the State's
25 Attorney's office of this hearing as required in paragraph (1)
26 of subsection (b) of Section 4.5 of the Rights of Crime Victims

1 and Witnesses Act and shall be informed of their opportunity
2 at this hearing to obtain an order of protection under Article
3 112A of this Code.

4 (Source: P.A. 100-1, eff. 1-1-18; 101-652, eff. 1-1-23.)

5 (725 ILCS 5/110-5.2)

6 Sec. 110-5.2. ~~Pretrial release~~ Bail; pregnant pre-trial
7 detainee.

8 (a) It is the policy of this State that a pre-trial
9 detainee shall not be required to deliver a child while in
10 custody absent a finding by the court that continued pre-trial
11 custody is necessary to protect the public or the victim of the
12 offense on which the charge is based.

13 (b) If the court reasonably believes that a pre-trial
14 detainee will give birth while in custody, the court shall
15 order an alternative to custody unless, after a hearing, the
16 court determines:

17 (1) that the release of the pregnant pre-trial
18 detainee would pose a real and present threat to the
19 physical safety of the alleged victim of the offense and
20 continuing custody is necessary to prevent the fulfillment
21 of the threat upon which the charge is based; or

22 (2) that the release of the pregnant pre-trial
23 detainee would pose a real and present threat to the
24 physical safety of any person or persons or the general
25 public.

1 (c) The court may order a pregnant or post-partum detainee
2 to be subject to electronic monitoring as a condition of
3 pre-trial release or order other condition or combination of
4 conditions the court reasonably determines are in the best
5 interest of the detainee and the public.

6 (d) This Section shall be applicable to a pregnant
7 pre-trial detainee in custody on or after the effective date
8 of this amendatory Act of the 100th General Assembly.

9 (Source: P.A. 100-630, eff. 1-1-19; 101-652.)

10 (725 ILCS 5/110-6) (from Ch. 38, par. 110-6)

11 Sec. 110-6. ~~Revocation of pretrial release, modification~~
12 ~~of conditions of pretrial release, and sanctions for~~
13 ~~violations of conditions of pretrial release~~ Modification of
14 bail or conditions.

15 (a) ~~When a defendant is granted pretrial release under~~
16 ~~this section, that pretrial release may be revoked only under~~
17 ~~the following conditions:~~

18 ~~(1) if the defendant is charged with a detainable~~
19 ~~felony as defined in 110-6.1, a defendant may be detained~~
20 ~~after the State files a verified petition for such a~~
21 ~~hearing, and gives the defendant notice as prescribed in~~
22 ~~110-6.1; or~~

23 ~~(2) in accordance with subsection (b) of this section.~~

24 ~~(b) Revocation due to a new criminal charge: If an~~
25 ~~individual, while on pretrial release for a Felony or Class A~~

1 ~~misdemeanor under this Section, is charged with a new felony~~
2 ~~or Class A misdemeanor under the Criminal Code of 2012, the~~
3 ~~court may, on its own motion or motion of the state, begin~~
4 ~~proceedings to revoke the individual's' pretrial release.~~

5 ~~(1) When the defendant is charged with a felony or~~
6 ~~class A misdemeanor offense and while free on pretrial~~
7 ~~release bail is charged with a subsequent felony or class~~
8 ~~A misdemeanor offense that is alleged to have occurred~~
9 ~~during the defendant's pretrial release, the state may~~
10 ~~file a verified petition for revocation of pretrial~~
11 ~~release.~~

12 ~~(2) When a defendant on pretrial release is charged~~
13 ~~with a violation of an order of protection issued under~~
14 ~~Section 112A-14 of this Code, or Section 214 of the~~
15 ~~Illinois Domestic Violence Act of 1986 or previously was~~
16 ~~convicted of a violation of an order of protection under~~
17 ~~Section 12-3.4 or 12-30 of the Criminal Code of 1961 or the~~
18 ~~Criminal Code of 2012, and the subject of the order of~~
19 ~~protection is the same person as the victim in the~~
20 ~~underlying matter, the state shall file a verified~~
21 ~~petition for revocation of pretrial release.~~

22 ~~(3) Upon the filing of this petition, the court shall~~
23 ~~order the transfer of the defendant and the application to~~
24 ~~the court before which the previous felony matter is~~
25 ~~pending. The defendant shall be held without bond pending~~
26 ~~transfer to and a hearing before such court. The defendant~~

1 ~~shall be transferred to the court before which the~~
2 ~~previous matter is pending without unnecessary delay. In~~
3 ~~no event shall the time between the filing of the state's~~
4 ~~petition for revocation and the defendant's appearance~~
5 ~~before the court before which the previous matter is~~
6 ~~pending exceed 72 hours.~~

7 ~~(4) The court before which the previous felony matter~~
8 ~~is pending may revoke the defendant's pretrial release~~
9 ~~only if it finds, after considering all relevant~~
10 ~~circumstances including, but not limited to, the nature~~
11 ~~and seriousness of the violation or criminal act alleged,~~
12 ~~by the court finds clear and convincing evidence that no~~
13 ~~condition or combination of conditions of release would~~
14 ~~reasonably assure the appearance of the defendant for~~
15 ~~later hearings or prevent the defendant from being charged~~
16 ~~with a subsequent felony or class A misdemeanor.~~

17 ~~(5) In lieu of revocation, the court may release the~~
18 ~~defendant pre trial, with or without modification of~~
19 ~~conditions of pretrial release.~~

20 ~~(6) If the case that caused the revocation is~~
21 ~~dismissed, the defendant is found not guilty in the case~~
22 ~~causing the revocation, or the defendant completes a~~
23 ~~lawfully imposed sentence on the case causing the~~
24 ~~revocation, the court shall, without unnecessary delay,~~
25 ~~hold a hearing on conditions of release pursuant to~~
26 ~~section 110.5 and release the defendant with or without~~

1 ~~modification of conditions of pretrial release.~~

2 ~~(7) Both the state and the defense may appeal an order~~
3 ~~revoking pretrial release or denying a petition for~~
4 ~~revocation of release.~~

5 ~~(c) Violations other than re arrest for a felony or class~~
6 ~~A misdemeanor. If a defendant:~~

7 ~~(1) fails to appear in court as required by their~~
8 ~~conditions of release;~~

9 ~~(2) is charged with a class B or C misdemeanor, petty~~
10 ~~offense, traffic offense, or ordinance violation that is~~
11 ~~alleged to have occurred during the defendant's pretrial~~
12 ~~release; or~~

13 ~~(3) violates any other condition of release set by the~~
14 ~~court,~~

15 ~~the court shall follow the procedures set forth in Section~~
16 ~~110-3 to ensure the defendant's appearance in court to address~~
17 ~~the violation.~~

18 ~~(d) When a defendant appears in court for a notice to show~~
19 ~~cause hearing, or after being arrested on a warrant issued~~
20 ~~because of a failure to appear at a notice to show cause~~
21 ~~hearing, or after being arrested for an offense other than a~~
22 ~~felony or class A misdemeanor, the state may file a verified~~
23 ~~petition requesting a hearing for sanctions.~~

24 ~~(e) During the hearing for sanctions, the defendant shall~~
25 ~~be represented by counsel and have an opportunity to be heard~~
26 ~~regarding the violation and evidence in mitigation. The court~~

1 ~~shall only impose sanctions if it finds by clear and~~
2 ~~convincing evidence that:~~

3 ~~1. The defendant committed an act that violated a term~~
4 ~~of their pretrial release;~~

5 ~~2. The defendant had actual knowledge that their~~
6 ~~action would violate a court order;~~

7 ~~3. The violation of the court order was willful; and~~

8 ~~4. The violation was not caused by a lack of access to~~
9 ~~financial monetary resources.~~

10 ~~(f) Sanctions: sanctions for violations of pretrial~~
11 ~~release may include:~~

12 ~~1. A verbal or written admonishment from the court;~~

13 ~~2. Imprisonment in the county jail for a period not~~
14 ~~exceeding 30 days;~~

15 ~~3. A fine of not more than \$200; or~~

16 ~~4. A modification of the defendant's pretrial~~
17 ~~conditions.~~

18 ~~(g) Modification of Pretrial Conditions~~

19 ~~(a) The court may, at any time, after motion by either~~
20 ~~party or on its own motion, remove previously set~~
21 ~~conditions of pretrial release, subject to the provisions~~
22 ~~in section (c). The court may only add or increase~~
23 ~~conditions of pretrial release at a hearing under this~~
24 ~~Section, in a warrant issued under Section 110-3, or upon~~
25 ~~motion from the state.~~

26 ~~(b) Modification of conditions of release regarding~~

1 ~~contact with victims or witnesses. The court shall not~~
2 ~~remove a previously set condition of bond regulating~~
3 ~~contact with a victim or witness in the case, unless the~~
4 ~~subject of the condition has been given notice of the~~
5 ~~hearing as required in paragraph (1) of subsection (b) of~~
6 ~~Section 4.5 of the Rights of Crime Victims and Witnesses~~
7 ~~Act. If the subject of the condition of release is not~~
8 ~~present, the court shall follow the procedures of~~
9 ~~paragraph (10) of subsection (c 1) of the Rights of Crime~~
10 ~~Victims and Witnesses Act.~~

11 (a-1) (h) Notice to Victims: Crime Victims shall be given
12 notice by the State's Attorney's office of all hearings in
13 this section as required in paragraph (1) of subsection (b) of
14 Section 4.5 of the Rights of Crime Victims and Witnesses Act
15 and shall be informed of their opportunity at these hearing to
16 obtain an order of protection under Article 112A of this Code.
17 Upon verified application by the State or the defendant or on
18 its own motion the court before which the proceeding is
19 pending may increase or reduce the amount of bail or may alter
20 the conditions of the bail bond or grant bail where it has been
21 previously revoked or denied. If bail has been previously
22 revoked pursuant to subsection (f) of this Section or if bail
23 has been denied to the defendant pursuant to subsection (e) of
24 Section 110-6.1 or subsection (e) of Section 110-6.3, the
25 defendant shall be required to present a verified application
26 setting forth in detail any new facts not known or obtainable

1 at the time of the previous revocation or denial of bail
2 proceedings. If the court grants bail where it has been
3 previously revoked or denied, the court shall state on the
4 record of the proceedings the findings of facts and conclusion
5 of law upon which such order is based.

6 (a-5) In addition to any other available motion or
7 procedure under this Code, a person in custody solely for a
8 Category B offense due to an inability to post monetary bail
9 shall be brought before the court at the next available court
10 date or 7 calendar days from the date bail was set, whichever
11 is earlier, for a rehearing on the amount or conditions of bail
12 or release pending further court proceedings. The court may
13 reconsider conditions of release for any other person whose
14 inability to post monetary bail is the sole reason for
15 continued incarceration, including a person in custody for a
16 Category A offense or a Category A offense and a Category B
17 offense. The court may deny the rehearing permitted under this
18 subsection (a-5) if the person has failed to appear as
19 required before the court and is incarcerated based on a
20 warrant for failure to appear on the same original criminal
21 offense.

22 (b) Violation of the conditions of Section 110-10 of this
23 Code or any special conditions of bail as ordered by the court
24 shall constitute grounds for the court to increase the amount
25 of bail, or otherwise alter the conditions of bail, or, where
26 the alleged offense committed on bail is a forcible felony in

1 Illinois or a Class 2 or greater offense under the Illinois
2 Controlled Substances Act, the Cannabis Control Act, or the
3 Methamphetamine Control and Community Protection Act, revoke
4 bail pursuant to the appropriate provisions of subsection (e)
5 of this Section.

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

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

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

1 defendant and the application without unnecessary delay to the
2 court before which the previous felony matter is pending for a
3 hearing as provided in subsection (b) or this subsection of
4 this Section. The defendant shall be held without bond pending
5 transfer to and a hearing before such court. At the conclusion
6 of the hearing based on a violation of the conditions of
7 Section 110-10 of this Code or any special conditions of bail
8 as ordered by the court the court may enter an order increasing
9 the amount of bail or alter the conditions of bail as deemed
10 appropriate.

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

1 victim the court shall, on the motion of the State or its own
2 motion, revoke bail in accordance with the following
3 provisions:

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

19 (2) At a hearing on the alleged violation the State
20 has the burden of going forward and proving the violation
21 by clear and convincing evidence. The evidence shall be
22 presented in open court with the opportunity to testify,
23 to present witnesses in his behalf, and to cross-examine
24 witnesses if any are called by the State, and
25 representation by counsel and if the defendant is indigent
26 to have counsel appointed for him. The rules of evidence

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

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

1 item (1) of subsection (a) of Section 12-3.2 of the
2 Criminal Code of 1961 or the Criminal Code of 2012 against
3 a family or household member as defined in Section 112A-3
4 of this Code and the violation is an offense of domestic
5 battery, against the same victim, the court shall revoke
6 the bail of the defendant and hold the defendant for trial
7 without bail. Neither the finding of the court nor any
8 transcript or other record of the hearing shall be
9 admissible in the State's case in chief, but shall be
10 admissible for impeachment, or as provided in Section
11 115-10.1 of this Code or in a perjury proceeding.

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

23 (5) If the defendant either is arrested on a warrant
24 issued pursuant to this Code or is arrested for an
25 unrelated offense and it is subsequently discovered that
26 the defendant is a subject of another warrant or warrants

1 issued pursuant to this Code, the defendant shall be
2 transferred promptly to the court which issued such
3 warrant. If, however, the defendant appears initially
4 before a court other than the court which issued such
5 warrant, the non-issuing court shall not alter the amount
6 of bail set on such warrant unless the court sets forth on
7 the record of proceedings the conclusions of law and facts
8 which are the basis for such altering of another court's
9 bond. The non-issuing court shall not alter another courts
10 bail set on a warrant unless the interests of justice and
11 public safety are served by such action.

12 (g) The State may appeal any order where the court has
13 increased or reduced the amount of bail or altered the
14 conditions of the bail bond or granted bail where it has
15 previously been revoked.

16 (Source: P.A. 100-1, eff. 1-1-18; 100-929, eff. 1-1-19;
17 101-652.)

18 (725 ILCS 5/110-6.1) (from Ch. 38, par. 110-6.1)

19 Sec. 110-6.1. Denial of ~~pretrial release~~ bail in
20 non-probationable felony offenses.

21 (a) Upon verified petition by the State, the court shall
22 hold a hearing ~~and may deny~~ to determine whether bail should be
23 denied to a defendant ~~pretrial release only if:~~

24 ~~(1) the defendant~~ who is charged with a ~~forcible~~
25 felony offense for which a sentence of imprisonment,

1 without probation, periodic imprisonment or conditional
2 discharge, is required by law upon conviction, ~~and~~ when it
3 is alleged that the defendant's ~~pretrial release poses a~~
4 ~~specific, real and present threat to any person or the~~
5 ~~community.~~ admission to bail poses a real and present
6 threat to the physical safety of any person or persons .

7 ~~(2) the defendant is charged with stalking or~~
8 ~~aggravated stalking and it is alleged that the defendant's~~
9 ~~pre trial release poses a real and present threat to the~~
10 ~~physical safety of a victim of the alleged offense, and~~
11 ~~denial of release is necessary to prevent fulfillment of~~
12 ~~the threat upon which the charge is based;~~

13 ~~(3) the victim of abuse was a family or household~~
14 ~~member as defined by paragraph (6) of Section 103 of the~~
15 ~~Illinois Domestic Violence Act of 1986, and the person~~
16 ~~charged, at the time of the alleged offense, was subject~~
17 ~~to the terms of an order of protection issued under~~
18 ~~Section 112A 14 of this Code, or Section 214 of the~~
19 ~~Illinois Domestic Violence Act of 1986 or previously was~~
20 ~~convicted of a violation of an order of protection under~~
21 ~~Section 12-3.4 or 12-30 of the Criminal Code of 1961 or the~~
22 ~~Criminal Code of 2012 or a violent crime if the victim was~~
23 ~~a family or household member as defined by paragraph (6)~~
24 ~~of the Illinois Domestic Violence Act of 1986 at the time~~
25 ~~of the offense or a violation of a substantially similar~~
26 ~~municipal ordinance or law of this or any other state or~~

1 ~~the United States if the victim was a family or household~~
2 ~~member as defined by paragraph (6) of Section 103 of the~~
3 ~~Illinois Domestic Violence Act of 1986 at the time of the~~
4 ~~offense, and it is alleged that the defendant's pre-trial~~
5 ~~release poses a real and present threat to the physical~~
6 ~~safety of any person or persons;~~

7 ~~(4) the defendant is charged with domestic battery or~~
8 ~~aggravated domestic battery under Section 12-3.2 or 12-3.3~~
9 ~~of the Criminal Code of 2012 and it is alleged that the~~
10 ~~defendant's pretrial release poses a real and present~~
11 ~~threat to the physical safety of any person or persons;~~

12 ~~(5) the defendant is charged with any offense under~~
13 ~~Article 11 of the Criminal Code of 2012, except for~~
14 ~~Sections 11-30, 11-35, 11-40, and 11-45 of the Criminal~~
15 ~~Code of 2012, or similar provisions of the Criminal Code~~
16 ~~of 1961 and it is alleged that the defendant's pretrial~~
17 ~~release poses a real and present threat to the physical~~
18 ~~safety of any person or persons;~~

19 ~~(6) the defendant is charged with any of these~~
20 ~~violations under the Criminal Code of 2012 and it is~~
21 ~~alleged that the defendant's pretrial releases poses a~~
22 ~~real and present threat to the physical safety of any~~
23 ~~specifically identifiable person or persons.~~

24 ~~(A) Section 24-1.2 (aggravated discharge of a~~
25 ~~firearm);~~

26 ~~(B) Section 24-2.5 (aggravated discharge of a~~

1 ~~machine gun or a firearm equipped with a device~~
2 ~~designed or use for silencing the report of a~~
3 ~~firearm);~~

4 ~~(C) Section 24-1.5 (reckless discharge of a~~
5 ~~firearm);~~

6 ~~(D) Section 24-1.7 (armed habitual criminal);~~

7 ~~(E) Section 24-2.2-2 (manufacture, sale or~~
8 ~~transfer of bullets or shells represented to be armor~~
9 ~~piercing bullets, dragon's breath shotgun shells, bolo~~
10 ~~shells or flechette shells);~~

11 ~~(F) Section 24-3 (unlawful sale or delivery of~~
12 ~~firearms);~~

13 ~~(G) Section 24-3.3 (unlawful sale or delivery of~~
14 ~~firearms on the premises of any school);~~

15 ~~(H) Section 24-34 (unlawful sale of firearms by~~
16 ~~liquor license);~~

17 ~~(I) Section 24-3.5 (unlawful purchase of a~~
18 ~~firearm);~~

19 ~~(J) Section 24-3A (gunrunning); or~~

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

21 ~~(L) Section 10-9 (b) (involuntary servitude);~~

22 ~~(M) Section 10-9 (c) (involuntary sexual servitude~~
23 ~~of a minor);~~

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

25 ~~(O) Non-probationable violations: (i) (unlawful~~
26 ~~use or possession of weapons by felons or persons in~~

1 ~~the Custody of the Department of Corrections~~
2 ~~facilities (Section 24-1.1), (ii) aggravated unlawful~~
3 ~~use of a weapon (Section 24-1.6, or (iii) aggravated~~
4 ~~possession of a stolen firearm (Section 24-3.9);~~
5 ~~(7) the person has a high likelihood of willful flight~~
6 ~~to avoid prosecution and is charged with:~~

7 ~~(A) Any felony described in Sections (a)(1)~~
8 ~~through (a)(5) of this Section; or~~

9 ~~(B) A felony offense other than a Class 4 offense.~~

10 ~~(b) If the charged offense is a felony, the Court shall~~
11 ~~hold a hearing pursuant to 109-3 of this Code to~~
12 ~~determine whether there is probable cause the~~
13 ~~defendant has committed an offense, unless a grand~~
14 ~~jury has returned a true bill of indictment against~~
15 ~~the defendant. If there is a finding of no probable~~
16 ~~cause, the defendant shall be released. No such~~
17 ~~finding is necessary if the defendant is charged with~~
18 ~~a misdemeanor.~~

19 ~~(c) Timing of petition.~~

20 (1) A petition may be filed without prior notice to
21 the defendant at the first appearance before a judge, or
22 within the 21 calendar days, except as provided in Section
23 110-6, after arrest and release of the defendant upon
24 reasonable notice to defendant; provided that while such
25 petition is pending before the court, the defendant if
26 previously released shall not be detained.

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

13 ~~(d) Contents of petition.~~

14 ~~(1) The petition shall be verified by the State and~~
15 ~~shall state the grounds upon which it contends the~~
16 ~~defendant should be denied pretrial release, including the~~
17 ~~identity of the specific person or persons the State~~
18 ~~believes the defendant poses a danger to.~~

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

20 ~~(e) Eligibility: All defendants shall be presumed eligible~~
21 ~~for pretrial release, and the State shall bear the burden of~~
22 ~~proving by clear and convincing evidence that: The hearing~~
23 ~~shall be held immediately upon the defendant's appearance~~
24 ~~before the court, unless for good cause shown the defendant or~~
25 ~~the State seeks a continuance. A continuance on motion of the~~
26 ~~defendant may not exceed 5 calendar days, and a continuance on~~

1 the motion of the State may not exceed 3 calendar days. The
2 defendant may be held in custody during such continuance.

3 (b) The court may deny bail to the defendant where, after
4 the hearing, it is determined 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)~~ for which a
8 sentence of imprisonment, without probation, periodic
9 imprisonment or conditional discharge, must be imposed by
10 law as a consequence of conviction, and

11 (2) the defendant poses a real and present threat to
12 the physical safety of a ~~specific, identifiable~~ any person
13 or persons, by conduct which may include, but is not
14 limited to, a forcible felony, the obstruction of justice,
15 intimidation, injury, ~~or abuse as defined by paragraph (1)~~
16 ~~of Section 103 of the Illinois Domestic Violence Act of~~
17 ~~1986~~ physical harm, an offense under the Illinois
18 Controlled Substances Act which is a Class X felony, or an
19 offense under the Methamphetamine Control and Community
20 Protection Act which is a Class X felony, and

21 (3) the court finds that no condition or combination
22 of conditions set forth in subsection (b) of Section
23 110-10 of this Article ~~can mitigate the real and present~~
24 ~~threat to the safety of any~~ , can reasonably assure the
25 physical safety of any other person or persons ~~or the~~
26 ~~defendant's willful flight.~~

1 ~~(f)~~ (c) Conduct of the hearings.

2 (1) ~~Prior to the hearing the State shall tender to the~~
3 ~~defendant copies of defendant's criminal history~~
4 ~~available, any written or recorded statements, and the~~
5 ~~substance of any oral statements made by any person, if~~
6 ~~relied upon by the State in its petition, and any police~~
7 ~~reports in the State's Attorney's possession at the time~~
8 ~~of the hearing that are required to be disclosed to the~~
9 ~~defense under Illinois Supreme Court rules. The hearing on~~
10 ~~the defendant's culpability and dangerousness shall be~~
11 ~~conducted in accordance with the following provisions:~~

12 ~~(2) The State or defendant may present evidence at the~~
13 ~~hearing (A) Information used by the court in its findings~~
14 ~~or stated in or offered at such hearing may be by way of~~
15 ~~proffer based upon reliable information offered by the~~
16 ~~State or by defendant.~~

17 ~~(3) The defendant Defendant has the right to be~~
18 ~~represented by counsel, and if he ~~or she~~ is indigent, to~~
19 ~~have counsel appointed for him ~~or her~~. The defendant.~~
20 ~~Defendant shall have the opportunity to testify, to~~
21 ~~present witnesses ~~on~~ in his ~~or her~~ own behalf, and to~~
22 ~~cross-examine ~~any~~ witnesses ~~that~~ if any are called by the~~
23 ~~State.~~

24 ~~(4) If the defense seeks to call the complaining~~
25 ~~witness as a witness in its favor, it shall petition the~~
26 ~~court for permission. The defendant has the right to~~

1 present witnesses in his favor. When the ends of justice
2 so require, the court may ~~exercise~~ exercises its
3 discretion and compel the appearance of a complaining
4 witness. The court shall state on the record reasons for
5 granting a defense request to compel the presence of a
6 complaining witness. ~~In making a determination under this~~
7 ~~section, the court shall state on the record the reason~~
8 ~~for granting a defense request to compel the presence of a~~
9 ~~complaining witness, and only grant the request if the~~
10 ~~court finds by clear and convincing evidence that the~~
11 ~~defendant will be materially prejudiced if the complaining~~
12 ~~witness does not appear.~~ Cross-examination of a
13 complaining witness at the pretrial detention hearing for
14 the purpose of impeaching the witness' credibility is
15 insufficient reason to compel the presence of the witness.
16 In deciding whether to compel the appearance of a
17 complaining witness, the court shall be considerate of the
18 emotional and physical well-being of the witness. The
19 pre-trial detention hearing is not to be used for purposes
20 of discovery, and the post arraignment rules of discovery
21 do not apply. The State shall tender to the defendant,
22 prior to the hearing, copies of defendant's criminal
23 history, if any, if available, and any written or recorded
24 statements and the substance of any oral statements made
25 by any person, if relied upon by the State in its petition.

26 ~~(5)~~ The rules concerning the admissibility of evidence

1 in criminal trials do not apply to the presentation and
2 consideration of information at the hearing. At the trial
3 concerning the offense for which the hearing was conducted
4 neither the finding of the court nor any transcript or
5 other record of the hearing shall be admissible in the
6 State's case in chief, but shall be admissible for
7 impeachment, or as provided in Section 115-10.1 of this
8 Code, or in a perjury proceeding.

9 ~~(6) The (B) A motion by the defendant may not move to~~
10 ~~suppress evidence or to suppress a confession, however,~~
11 ~~evidence shall not be entertained. Evidence that proof of~~
12 ~~the charged crime may have been obtained as the result of~~
13 ~~an unlawful search ~~or~~ and seizure, ~~or both,~~ or through~~
14 ~~improper interrogation, is not relevant ~~in assessing the~~~~
15 ~~weight of the evidence against the defendant to this state~~
16 ~~of the prosecution.~~

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

21 (2) The facts relied upon by the court to support a
22 finding that the defendant poses a real and present threat
23 to the physical safety of any person or persons shall be
24 supported by clear and convincing evidence presented by
25 the State.

26 ~~(g) (d)~~ (d) Factors to be considered in making a determination

1 of dangerousness. The court may, in determining whether the
2 defendant poses a ~~specific, imminent~~ real and present threat
3 ~~of serious~~ to the physical harm to an identifiable safety of
4 any person or persons, consider but shall not be limited to
5 evidence or testimony concerning:

6 (1) The nature and circumstances of any offense
7 charged, including whether the offense is a crime of
8 violence, involving a weapon, ~~or a sex offense.~~

9 (2) The history and characteristics of the defendant
10 including:

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

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

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

24 (4) Any statements made by, or attributed to the
25 defendant, together with the circumstances surrounding
26 them;

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

3 ~~(6) The age and physical condition of any victim or~~
4 ~~complaining witness;~~

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

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

13 ~~(9)~~ (8) Any other factors, including those listed in
14 Section 110-5 of this Article deemed by the court to have a
15 reasonable bearing upon the defendant's propensity or
16 reputation for violent, abusive or assaultive behavior, or
17 lack of such behavior.

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

20 (1) briefly summarize the evidence of the defendant's
21 ~~guilt or innocence,~~ culpability and ~~the court's~~ its
22 reasons for concluding that the defendant should be ~~denied~~
23 ~~pretrial release~~ 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 ~~or her~~ choice by
4 visitation, 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 ~~(i) Detention.~~ (f) If the court enters an order for the
9 detention of the defendant pursuant to subsection (e) of this
10 Section, the defendant shall be brought to trial on the
11 offense for which he is detained within 90 days after the date
12 on which the order for detention was entered. If the defendant
13 is not brought to trial within the 90 day period required by
14 the preceding sentence, he shall not be ~~denied pretrial~~
15 ~~release~~ held longer without bail. In computing the 90 day
16 period, the court shall omit any period of delay resulting
17 from a continuance granted at the request of the defendant.

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

21 ~~(k) Appeal.~~ (h) The State may appeal any order entered
22 under this Section denying any motion for denial of ~~pretrial~~
23 ~~release~~ bail.

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

1 proceedings.

2 (j) ~~(m)~~ Victim notice.

3 (1) Crime Victims shall be given notice by the State's
4 Attorney's office of this hearing as required in paragraph
5 (1) of subsection (b) of Section 4.5 of the Rights of Crime
6 Victims and Witnesses Act and shall be informed of their
7 opportunity at this hearing to obtain an order of
8 protection under Article 112A of this Code.

9 (Source: P.A. 98-558, eff. 1-1-14; 101-652.)

10 (725 ILCS 5/110-6.2) (from Ch. 38, par. 110-6.2)

11 Sec. 110-6.2. Post-conviction Detention.

12 (a) The court may order that a person who has been found
13 guilty of an offense and who is waiting imposition or
14 execution of sentence be held without ~~release~~ bond unless the
15 court finds by clear and convincing evidence that the person
16 is not likely to flee or pose a danger to any other person or
17 the community if released under Sections 110-5 and 110-10 of
18 this Act.

19 (b) The court may order that person who has been found
20 guilty of an offense and sentenced to a term of imprisonment be
21 held without ~~release~~ bond unless the court finds by clear and
22 convincing evidence that:

23 (1) the person is not likely to flee or pose a danger
24 to the safety of any other person or the community if
25 released on bond pending appeal; and

1 (2) that the appeal is not for purpose of delay and
2 raises a substantial question of law or fact likely to
3 result in reversal or an order for a new trial.

4 (Source: P.A. 96-1200, eff. 7-22-10; 101-652.)

5 (725 ILCS 5/110-6.4)

6 Sec. 110-6.4. Statewide risk-assessment tool. The Supreme
7 Court may establish a statewide risk-assessment tool to be
8 used in proceedings to assist the court in establishing
9 ~~conditions of pretrial release~~ bail for a defendant by
10 assessing the defendant's likelihood of appearing at future
11 court proceedings or determining if the defendant poses a real
12 and present threat to the physical safety of any person or
13 persons. The Supreme Court shall consider establishing a
14 risk-assessment tool that does not discriminate on the basis
15 of race, gender, educational level, socio-economic status, or
16 neighborhood. If a risk-assessment tool is utilized within a
17 circuit that does not require a personal interview to be
18 completed, the Chief Judge of the circuit or the director of
19 the pretrial services agency may exempt the requirement under
20 Section 9 and subsection (a) of Section 7 of the Pretrial
21 Services Act.

22 For the purpose of this Section, "risk-assessment tool"
23 means an empirically validated, evidence-based screening
24 instrument that demonstrates reduced instances of a
25 defendant's failure to appear for further court proceedings or

1 prevents future criminal activity.

2 (Source: P.A. 100-1, eff. 1-1-18; 100-863, eff. 8-14-18;
3 101-652.)

4 (725 ILCS 5/110-7.1 new)

5 Sec. 110-7.1. Deposit of bail security.

6 (a) The person for whom bail has been set shall execute the
7 bail bond and deposit with the clerk of the court before which
8 the proceeding is pending a sum of money equal to 10% of the
9 bail, but in no event shall such deposit be less than \$25. The
10 clerk of the court shall provide a space on each form for a
11 person other than the accused who has provided the money for
12 the posting of bail to so indicate and a space signed by an
13 accused who has executed the bail bond indicating whether a
14 person other than the accused has provided the money for the
15 posting of bail. The form shall also include a written notice
16 to such person who has provided the defendant with the money
17 for the posting of bail indicating that the bail may be used to
18 pay costs, attorney's fees, fines, or other purposes
19 authorized by the court and if the defendant fails to comply
20 with the conditions of the bail bond, the court shall enter an
21 order declaring the bail to be forfeited. The written notice
22 must be:

23 (1) distinguishable from the surrounding text;

24 (2) in bold type or underscored; and

25 (3) in a type size at least 2 points larger than the

1 surrounding type.

2 When a person for whom bail has been set is charged with an
3 offense under the Illinois Controlled Substances Act or the
4 Methamphetamine Control and Community Protection Act which is
5 a Class X felony, or making a terrorist threat in violation of
6 Section 29D-20 of the Criminal Code of 1961 or the Criminal
7 Code of 2012 or an attempt to commit the offense of making a
8 terrorist threat, the court may require the defendant to
9 deposit a sum equal to 100% of the bail. Where any person is
10 charged with a forcible felony while free on bail and is the
11 subject of proceedings under Section 109-3 of this Code the
12 judge conducting the preliminary examination may also conduct
13 a hearing upon the application of the State pursuant to the
14 provisions of Section 110-6 of this Code to increase or revoke
15 the bail for that person's prior alleged offense.

16 (b) Upon depositing this sum and any bond fee authorized
17 by law, the person shall be released from custody subject to
18 the conditions of the bail bond.

19 (c) Once bail has been given and a charge is pending or is
20 thereafter filed in or transferred to a court of competent
21 jurisdiction the latter court shall continue the original bail
22 in that court subject to the provisions of Section 110-6 of
23 this Code.

24 (d) After conviction the court may order that the original
25 bail stand as bail pending appeal or deny, increase or reduce
26 bail subject to the provisions of Section 110-6.2.

1 (e) After the entry of an order by the trial court allowing
2 or denying bail pending appeal either party may apply to the
3 reviewing court having jurisdiction or to a justice thereof
4 sitting in vacation for an order increasing or decreasing the
5 amount of bail or allowing or denying bail pending appeal
6 subject to the provisions of Section 110-6.2.

7 (f) (1) This paragraph (1) applies in cases other than the
8 acquittal of the defendant. When the conditions of the bail
9 bond have been performed and the accused has been discharged
10 from all obligations in the cause the clerk of the court shall
11 return to the accused or to the defendant's designee by an
12 assignment executed at the time the bail amount is deposited,
13 unless the court orders otherwise, 90% of the sum which had
14 been deposited and shall retain as bail bond costs 10% of the
15 amount deposited. Bail bond deposited by or on behalf of a
16 defendant in one case may be used, in the court's discretion,
17 to satisfy financial obligations of that same defendant
18 incurred in a different case due to a fine, court costs,
19 restitution or fees of the defendant's attorney of record. In
20 counties with a population of 3,000,000 or more, the court
21 shall not order bail bond deposited by or on behalf of a
22 defendant in one case to be used to satisfy financial
23 obligations of that same defendant in a different case until
24 the bail bond is first used to satisfy court costs and
25 attorney's fees in the case in which the bail bond has been
26 deposited and any other unpaid child support obligations are

1 satisfied. In counties with a population of less than
2 3,000,000, the court shall not order bail bond deposited by or
3 on behalf of a defendant in one case to be used to satisfy
4 financial obligations of that same defendant in a different
5 case until the bail bond is first used to satisfy court costs
6 in the case in which the bail bond has been deposited. At the
7 request of the defendant the court may order such 90% of
8 defendant's bail deposit, or whatever amount is repayable to
9 defendant from such deposit, to be paid to defendant's
10 attorney of record.

11 (2) This paragraph (2) applies in cases of the acquittal
12 of the defendant. If the defendant is acquitted, the court
13 shall order 100% of the defendant's bail deposit returned to
14 the defendant or to the defendant's designee by an assignment
15 executed at the time the bail amount is deposited.

16 (g) If the accused does not comply with the conditions of
17 the bail bond the court having jurisdiction shall enter an
18 order declaring the bail to be forfeited. Notice of such order
19 of forfeiture shall be mailed forthwith to the accused at his
20 last known address. If the accused does not appear and
21 surrender to the court having jurisdiction within 30 days from
22 the date of the forfeiture or within such period satisfy the
23 court that appearance and surrender by the accused is
24 impossible and without his fault the court shall enter
25 judgment for the State if the charge for which the bond was
26 given was a felony or misdemeanor, or if the charge was

1 quasi-criminal or traffic, judgment for the political
2 subdivision of the State which prosecuted the case, against
3 the accused for the amount of the bail and costs of the court
4 proceedings; however, in counties with a population of less
5 than 3,000,000, instead of the court entering a judgment for
6 the full amount of the bond the court may, in its discretion,
7 enter judgment for the cash deposit on the bond, less costs,
8 retain the deposit for further disposition or, if a cash bond
9 was posted for failure to appear in a matter involving
10 enforcement of child support or maintenance, the amount of the
11 cash deposit on the bond, less outstanding costs, may be
12 awarded to the person or entity to whom the child support or
13 maintenance is due. The deposit made in accordance with
14 paragraph (a) shall be applied to the payment of costs. If
15 judgment is entered and any amount of such deposit remains
16 after the payment of costs it shall be applied to payment of
17 the judgment and transferred to the treasury of the municipal
18 corporation wherein the bond was taken if the offense was a
19 violation of any penal ordinance of a political subdivision of
20 this State, or to the treasury of the county wherein the bond
21 was taken if the offense was a violation of any penal statute
22 of this State. The balance of the judgment may be enforced and
23 collected in the same manner as a judgment entered in a civil
24 action.

25 (h) After a judgment for a fine and court costs or either
26 is entered in the prosecution of a cause in which a deposit had

1 been made in accordance with paragraph (a) the balance of such
2 deposit, after deduction of bail bond costs, shall be applied
3 to the payment of the judgment.

4 (i) When a court appearance is required for an alleged
5 violation of the Criminal Code of 1961, the Criminal Code of
6 2012, the Illinois Vehicle Code, the Wildlife Code, the Fish
7 and Aquatic Life Code, the Child Passenger Protection Act, or
8 a comparable offense of a unit of local government as
9 specified in Supreme Court Rule 551, and if the accused does
10 not appear in court on the date set for appearance or any date
11 to which the case may be continued and the court issues an
12 arrest warrant for the accused, based upon his or her failure
13 to appear when having so previously been ordered to appear by
14 the court, the accused upon his or her admission to bail shall
15 be assessed by the court a fee of \$75. Payment of the fee shall
16 be a condition of release unless otherwise ordered by the
17 court. The fee shall be in addition to any bail that the
18 accused is required to deposit for the offense for which the
19 accused has been charged and may not be used for the payment of
20 court costs or fines assessed for the offense. The clerk of the
21 court shall remit \$70 of the fee assessed to the arresting
22 agency who brings the offender in on the arrest warrant. If the
23 Department of State Police is the arresting agency, \$70 of the
24 fee assessed shall be remitted by the clerk of the court to the
25 State Treasurer within one month after receipt for deposit
26 into the State Police Operations Assistance Fund. The clerk of

1 the court shall remit \$5 of the fee assessed to the Circuit
2 Court Clerk Operation and Administrative Fund as provided in
3 Section 27.3d of the Clerks of Courts Act.

4 (725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

5 Sec. 110-10. Conditions of ~~pretrial release~~ bail bond.

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

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

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

15 (3) ~~(Blank);~~ Not depart this State without leave of
16 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
22 custody of and impound the firearms and physically
23 surrender his or her Firearm Owner's Identification Card
24 to the clerk of the circuit court when the offense the
25 person has been charged with is a forcible felony,

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

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

26 Psychological evaluations ordered pursuant to this Section

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

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

1 ~~(0.05) Not depart this State without leave of the~~
2 ~~court;~~

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

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

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

9 (4) Refrain from going to certain described
10 geographical areas or premises;

11 (5) Refrain from engaging in certain activities or
12 indulging in intoxicating liquors or in certain drugs;

13 (6) Undergo treatment for drug addiction or
14 alcoholism;

15 (7) Undergo medical or psychiatric treatment;

16 (8) Work or pursue a course of study or vocational
17 training;

18 (9) Attend or reside in a facility designated by the
19 court;

20 (10) Support his or her dependents;

21 (11) If a minor resides with his or her parents or in a
22 foster home, attend school, attend a non-residential
23 program for youths, and contribute to his or her own
24 support at home or in a foster home;

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

26 (13) Remain in the custody of such designated person

1 or organization agreeing to supervise his release. Such
2 third party custodian shall be responsible for notifying
3 the court if the defendant fails to observe the conditions
4 of release which the custodian has agreed to monitor, and
5 shall be subject to contempt of court for failure so to
6 notify the court;

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

13 (14.1) The court ~~may~~ shall impose upon a defendant who
14 is charged with any alcohol, cannabis, methamphetamine, or
15 controlled substance violation and is placed under direct
16 supervision of the Pretrial Services Agency, Probation
17 Department or Court Services Department in a pretrial bond
18 home supervision capacity with the use of an approved
19 monitoring device, as a condition of such ~~pretrial~~
20 ~~monitoring~~ bail bond, a fee that represents costs
21 incidental to the electronic monitoring for each day of
22 such ~~pretrial~~ bail supervision ordered by the court,
23 unless after determining the inability of the defendant to
24 pay the fee, the court assesses a lesser fee or no fee as
25 the case may be. The fee shall be collected by the clerk of
26 the circuit court, except as provided in an administrative

1 order of the Chief Judge of the circuit court. The clerk of
2 the circuit court shall pay all monies collected from this
3 fee to the county treasurer for deposit in the substance
4 abuse services fund under Section 5-1086.1 of the Counties
5 Code, except as provided in an administrative order of the
6 Chief Judge of the circuit court.

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

17 The Chief Judge of the circuit court may suspend any
18 additional charges or fees for late payment, interest, or
19 damage to any device;

20 (14.2) The court ~~may~~ shall impose upon all defendants,
21 including those defendants subject to paragraph (14.1)
22 above, placed under direct supervision of the Pretrial
23 Services Agency, Probation Department or Court Services
24 Department in a pretrial bond home supervision capacity
25 with the use of an approved monitoring device, as a
26 condition of such ~~release~~ bail bond, a fee which shall

1 represent costs incidental to such electronic monitoring
2 for each day of such bail supervision ordered by the
3 court, unless after determining the inability of the
4 defendant to pay the fee, the court assesses a lesser fee
5 or no fee as the case may be. The fee shall be collected by
6 the clerk of the circuit court, except as provided in an
7 administrative order of the Chief Judge of the circuit
8 court. The clerk of the circuit court shall pay all monies
9 collected from this fee to the county treasurer who shall
10 use the monies collected to defray the costs of
11 corrections. The county treasurer shall deposit the fee
12 collected in the county working cash fund under Section
13 6-27001 or Section 6-29002 of the Counties Code, as the
14 case may be, except as provided in an administrative order
15 of the Chief Judge of the circuit court.

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

26 The Chief Judge of the circuit court may suspend any

1 additional charges or fees for late payment, interest, or
2 damage to any device;

3 (14.3) The Chief Judge of the Judicial Circuit may
4 establish reasonable fees to be paid by a person receiving
5 pretrial services while under supervision of a pretrial
6 services agency, probation department, or court services
7 department. Reasonable fees may be charged for pretrial
8 services including, but not limited to, pretrial
9 supervision, diversion programs, electronic monitoring,
10 victim impact services, drug and alcohol testing, DNA
11 testing, GPS electronic monitoring, assessments and
12 evaluations related to domestic violence and other
13 victims, and victim mediation services. The person
14 receiving pretrial services may be ordered to pay all
15 costs incidental to pretrial services in accordance with
16 his or her ability to pay those costs;

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

1 and scope of the defendant's employment;

2 (15) Comply with the terms and conditions of an order
3 of protection issued by the court under the Illinois
4 Domestic Violence Act of 1986 or an order of protection
5 issued by the court of another state, tribe, or United
6 States territory;

7 (16) ~~(Blank);~~ and Under Section 110-6.5 comply with
8 the conditions of the drug testing program; and

9 (17) Such other reasonable conditions as the court may
10 impose.

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

21 1. Vacate the household.

22 2. Make payment of temporary support to his
23 dependents.

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

26 (d) When a person is charged with a criminal offense and

1 the victim is a family or household member as defined in
2 Article 112A, conditions shall be imposed at the time of the
3 defendant's release on bond that restrict the defendant's
4 access to the victim. Unless provided otherwise by the court,
5 the restrictions shall include requirements that the defendant
6 do the following:

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

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

13 (e) Local law enforcement agencies shall develop
14 standardized ~~pretrial release bond~~ bond forms for use in cases
15 involving family or household members as defined in Article
16 112A, including specific conditions of ~~pretrial release bond~~
17 as provided in subsection (d). Failure of any law enforcement
18 department to develop or use those forms shall in no way limit
19 the applicability and enforcement of subsections (d) and (f).

20 (f) If the defendant is ~~released~~ admitted to bail after
21 conviction ~~following appeal or other post-conviction~~
22 ~~proceeding~~, the conditions of the ~~pretrial release~~ bail bond
23 shall be that he will, in addition to the conditions set forth
24 in subsections (a) and (b) hereof:

25 (1) Duly prosecute his appeal;

26 (2) Appear at such time and place as the court may

1 direct;

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

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

5 (5) If the judgment is affirmed or the cause reversed
6 and remanded for a new trial, forthwith surrender to the
7 officer from whose custody he was ~~released~~ bailed.

8 (g) Upon a finding of guilty for any felony offense, the
9 defendant shall physically surrender, at a time and place
10 designated by the court, any and all firearms in his or her
11 possession and his or her Firearm Owner's Identification Card
12 as a condition of ~~being released~~ remaining on bond pending
13 sentencing.

14 (h) In the event the defendant is ~~denied pretrial release~~
15 unable to post bond, the court may impose a no contact
16 provision with the victim or other interested party that shall
17 be enforced while the defendant remains in custody.

18 (Source: P.A. 101-138, eff. 1-1-20; 101-652.)

19 (725 ILCS 5/110-11) (from Ch. 38, par. 110-11)

20 Sec. 110-11. ~~Pretrial release~~ Bail on a new trial. If the
21 judgment of conviction is reversed and the cause remanded for
22 a new trial the trial court may order that the ~~conditions of~~
23 ~~pretrial release~~ bail stand pending such trial, or ~~modify the~~
24 ~~conditions of pretrial release~~ reduce or increase bail.

25 (Source: Laws 1963, p. 2836; P.A. 101-652.)

1 (725 ILCS 5/110-12) (from Ch. 38, par. 110-12)

2 Sec. 110-12. Notice of change of address.

3 A defendant who has been admitted to ~~pretrial release~~ bail
4 shall file a written notice with the clerk of the court before
5 which the proceeding is pending of any change in his or her
6 address within 24 hours after such change, except that a
7 defendant who has been admitted to ~~pretrial release~~ bail for a
8 forcible felony as defined in Section 2-8 of the Criminal Code
9 of 2012 shall file a written notice with the clerk of the court
10 before which the proceeding is pending and the clerk shall
11 immediately deliver a time stamped copy of the written notice
12 to the State's Attorney charged with the prosecution within 24
13 hours prior to such change. The address of a defendant who has
14 been admitted to ~~pretrial release~~ bail shall at all times
15 remain a matter of public record with the clerk of the court.
16 (Source: P.A. 97-1150, eff. 1-25-13; 101-652.)

17 (725 ILCS 5/111-2) (from Ch. 38, par. 111-2)

18 Sec. 111-2. Commencement of prosecutions.

19 (a) All prosecutions of felonies shall be by information
20 or by indictment. No prosecution may be pursued by information
21 unless a preliminary hearing has been held or waived in
22 accordance with Section 109-3 and at that hearing probable
23 cause to believe the defendant committed an offense was found,
24 and the provisions of Section 109-3.1 of this Code have been

1 complied with.

2 (b) All other prosecutions may be by indictment,
3 information or complaint.

4 (c) Upon the filing of an information or indictment in
5 open court charging the defendant with the commission of a sex
6 offense defined in any Section of Article 11 of the Criminal
7 Code of 1961 or the Criminal Code of 2012, and a minor as
8 defined in Section 1-3 of the Juvenile Court Act of 1987 is
9 alleged to be the victim of the commission of the acts of the
10 defendant in the commission of such offense, the court may
11 appoint a guardian ad litem for the minor as provided in
12 Section 2-17, 3-19, 4-16 or 5-610 of the Juvenile Court Act of
13 1987.

14 (d) Upon the filing of an information or indictment in
15 open court, the court shall immediately issue a warrant for
16 the arrest of each person charged with an offense directed to a
17 peace officer or some other person specifically named
18 commanding him to arrest such person.

19 (e) When the offense is ~~eligible for pretrial release~~
20 bailable, the judge shall endorse on the warrant the
21 ~~conditions of pretrial release~~ amount of bail required by the
22 order of the court, and if the court orders the process
23 returnable forthwith, the warrant shall require that the
24 accused be arrested and brought immediately into court.

25 (f) Where the prosecution of a felony is by information or
26 complaint after preliminary hearing, or after a waiver of

1 preliminary hearing in accordance with paragraph (a) of this
2 Section, such prosecution may be for all offenses, arising
3 from the same transaction or conduct of a defendant even
4 though the complaint or complaints filed at the preliminary
5 hearing charged only one or some of the offenses arising from
6 that transaction or conduct.

7 (Source: P.A. 97-1150, eff. 1-25-13; 101-652.)

8 (725 ILCS 5/112A-23) (from Ch. 38, par. 112A-23)

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

10 Sec. 112A-23. Enforcement of protective orders.

11 (a) When violation is crime. A violation of any protective
12 order, whether issued in a civil, quasi-criminal proceeding,
13 shall be enforced by a criminal court when:

14 (1) The respondent commits the crime of violation of a
15 domestic violence order of protection pursuant to Section
16 12-3.4 or 12-30 of the Criminal Code of 1961 or the
17 Criminal Code of 2012, by having knowingly violated:

18 (i) remedies described in paragraph ~~paragraphs~~
19 (1), (2), (3), (14), or (14.5) of subsection (b) of
20 Section 112A-14 of this Code,

21 (ii) a remedy, which is substantially similar to
22 the remedies authorized under paragraph ~~paragraphs~~
23 (1), (2), (3), (14), or (14.5) of subsection (b) of
24 Section 214 of the Illinois Domestic Violence Act of
25 1986, in a valid order of protection, which is

1 authorized under the laws of another state, tribe, or
2 United States territory, or

3 (iii) any other remedy when the act constitutes a
4 crime against the protected parties as defined by the
5 Criminal Code of 1961 or the Criminal Code of 2012.

6 Prosecution for a violation of a domestic violence
7 order of protection shall not bar concurrent prosecution
8 for any other crime, including any crime that may have
9 been committed at the time of the violation of the
10 domestic violence order of protection; or

11 (2) The respondent commits the crime of child
12 abduction pursuant to Section 10-5 of the Criminal Code of
13 1961 or the Criminal Code of 2012, by having knowingly
14 violated:

15 (i) remedies described in paragraph ~~paragraphs~~
16 (5), (6), or (8) of subsection (b) of Section 112A-14
17 of this Code, or

18 (ii) a remedy, which is substantially similar to
19 the remedies authorized under paragraph ~~paragraphs~~
20 (1), (5), (6), or (8) of subsection (b) of Section 214
21 of the Illinois Domestic Violence Act of 1986, in a
22 valid domestic violence order of protection, which is
23 authorized under the laws of another state, tribe, or
24 United States territory.

25 (3) The respondent commits the crime of violation of a
26 civil no contact order when the respondent violates

1 Section 12-3.8 of the Criminal Code of 2012. Prosecution
2 for a violation of a civil no contact order shall not bar
3 concurrent prosecution for any other crime, including any
4 crime that may have been committed at the time of the
5 violation of the civil no contact order.

6 (4) The respondent commits the crime of violation of a
7 stalking no contact order when the respondent violates
8 Section 12-3.9 of the Criminal Code of 2012. Prosecution
9 for a violation of a stalking no contact order shall not
10 bar concurrent prosecution for any other crime, including
11 any crime that may have been committed at the time of the
12 violation of the stalking no contact order.

13 (b) When violation is contempt of court. A violation of
14 any valid protective order, whether issued in a civil or
15 criminal proceeding, may be enforced through civil or criminal
16 contempt procedures, as appropriate, by any court with
17 jurisdiction, regardless where the act or acts which violated
18 the protective order were committed, to the extent consistent
19 with the venue provisions of this Article. Nothing in this
20 Article shall preclude any Illinois court from enforcing any
21 valid protective order issued in another state. Illinois
22 courts may enforce protective orders through both criminal
23 prosecution and contempt proceedings, unless the action which
24 is second in time is barred by collateral estoppel or the
25 constitutional prohibition against double jeopardy.

26 (1) In a contempt proceeding where the petition for a

1 rule to show cause sets forth facts evidencing an
2 immediate danger that the respondent will flee the
3 jurisdiction, conceal a child, or inflict physical abuse
4 on the petitioner or minor children or on dependent adults
5 in petitioner's care, the court may order the attachment
6 of the respondent without prior service of the rule to
7 show cause or the petition for a rule to show cause. Bond
8 shall be set unless specifically denied in writing.

9 (2) A petition for a rule to show cause for violation
10 of a protective order shall be treated as an expedited
11 proceeding.

12 (c) Violation of custody, allocation of parental
13 responsibility, or support orders. A violation of remedies
14 described in ~~paragraph paragraphs~~ (5), (6), (8), or (9) of
15 subsection (b) of Section 112A-14 of this Code may be enforced
16 by any remedy provided by Section 607.5 of the Illinois
17 Marriage and Dissolution of Marriage Act. The court may
18 enforce any order for support issued under paragraph (12) of
19 subsection (b) of Section 112A-14 of this Code in the manner
20 provided for under Parts V and VII of the Illinois Marriage and
21 Dissolution of Marriage Act.

22 (d) Actual knowledge. A protective order may be enforced
23 pursuant to this Section if the respondent violates the order
24 after the respondent has actual knowledge of its contents as
25 shown through one of the following means:

26 (1) (Blank).

1 (2) (Blank).

2 (3) By service of a protective order under subsection
3 (f) of Section 112A-17.5 or Section 112A-22 of this Code.

4 (4) By other means demonstrating actual knowledge of
5 the contents of the order.

6 (e) The enforcement of a protective order in civil or
7 criminal court shall not be affected by either of the
8 following:

9 (1) The existence of a separate, correlative order
10 entered under Section 112A-15 of this Code.

11 (2) Any finding or order entered in a conjoined
12 criminal proceeding.

13 (e-5) If a civil no contact order entered under subsection
14 (6) of Section 112A-20 of the Code of Criminal Procedure of
15 1963 conflicts with an order issued pursuant to the Juvenile
16 Court Act of 1987 or the Illinois Marriage and Dissolution of
17 Marriage Act, the conflicting order issued under subsection
18 (6) of Section 112A-20 of the Code of Criminal Procedure of
19 1963 shall be void.

20 (f) Circumstances. The court, when determining whether or
21 not a violation of a protective order has occurred, shall not
22 require physical manifestations of abuse on the person of the
23 victim.

24 (g) Penalties.

25 (1) Except as provided in paragraph (3) of this
26 subsection (g), where the court finds the commission of a

1 crime or contempt of court under subsection ~~subsections~~
2 (a) or (b) of this Section, the penalty shall be the
3 penalty that generally applies in such criminal or
4 contempt proceedings, and may include one or more of the
5 following: incarceration, payment of restitution, a fine,
6 payment of attorneys' fees and costs, or community
7 service.

8 (2) The court shall hear and take into account
9 evidence of any factors in aggravation or mitigation
10 before deciding an appropriate penalty under paragraph (1)
11 of this subsection (g).

12 (3) To the extent permitted by law, the court is
13 encouraged to:

14 (i) increase the penalty for the knowing violation
15 of any protective order over any penalty previously
16 imposed by any court for respondent's violation of any
17 protective order or penal statute involving petitioner
18 as victim and respondent as defendant;

19 (ii) impose a minimum penalty of 24 hours
20 imprisonment for respondent's first violation of any
21 protective order; and

22 (iii) impose a minimum penalty of 48 hours
23 imprisonment for respondent's second or subsequent
24 violation of a protective order

25 unless the court explicitly finds that an increased
26 penalty or that period of imprisonment would be manifestly

1 unjust.

2 (4) In addition to any other penalties imposed for a
3 violation of a protective order, a criminal court may
4 consider evidence of any violations of a protective order:

5 (i) to increase, revoke, or modify the bail bond
6 on an underlying criminal charge pursuant to Section
7 110-6 of this Code;

8 (ii) to revoke or modify an order of probation,
9 conditional discharge, or supervision, pursuant to
10 Section 5-6-4 of the Unified Code of Corrections;

11 (iii) to revoke or modify a sentence of periodic
12 imprisonment, pursuant to Section 5-7-2 of the Unified
13 Code of Corrections.

14 (Source: P.A. 102-184, eff. 1-1-22; 102-558, eff. 8-20-21.)

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

16 Sec. 112A-23. Enforcement of protective orders.

17 (a) When violation is crime. A violation of any protective
18 order, whether issued in a civil, quasi-criminal proceeding,
19 shall be enforced by a criminal court when:

20 (1) The respondent commits the crime of violation of a
21 domestic violence order of protection pursuant to Section
22 12-3.4 or 12-30 of the Criminal Code of 1961 or the
23 Criminal Code of 2012, by having knowingly violated:

24 (i) remedies described in paragraph ~~paragraphs~~
25 (1), (2), (3), (14), or (14.5) of subsection (b) of

1 Section 112A-14 of this Code,

2 (ii) a remedy, which is substantially similar to
3 the remedies authorized under paragraph ~~paragraphs~~
4 (1), (2), (3), (14), or (14.5) of subsection (b) of
5 Section 214 of the Illinois Domestic Violence Act of
6 1986, in a valid order of protection, which is
7 authorized under the laws of another state, tribe, or
8 United States territory, ~~or~~

9 (iii) or any other remedy when the act constitutes
10 a crime against the protected parties as defined by
11 the Criminal Code of 1961 or the Criminal Code of 2012.

12 Prosecution for a violation of a domestic violence
13 order of protection shall not bar concurrent prosecution
14 for any other crime, including any crime that may have
15 been committed at the time of the violation of the
16 domestic violence order of protection; or

17 (2) The respondent commits the crime of child
18 abduction pursuant to Section 10-5 of the Criminal Code of
19 1961 or the Criminal Code of 2012, by having knowingly
20 violated:

21 (i) remedies described in paragraph ~~paragraphs~~
22 (5), (6), or (8) of subsection (b) of Section 112A-14
23 of this Code, or

24 (ii) a remedy, which is substantially similar to
25 the remedies authorized under paragraph ~~paragraphs~~
26 (1), (5), (6), or (8) of subsection (b) of Section 214

1 of the Illinois Domestic Violence Act of 1986, in a
2 valid domestic violence order of protection, which is
3 authorized under the laws of another state, tribe, or
4 United States territory.

5 (3) The respondent commits the crime of violation of a
6 civil no contact order when the respondent violates
7 Section 12-3.8 of the Criminal Code of 2012. Prosecution
8 for a violation of a civil no contact order shall not bar
9 concurrent prosecution for any other crime, including any
10 crime that may have been committed at the time of the
11 violation of the civil no contact order.

12 (4) The respondent commits the crime of violation of a
13 stalking no contact order when the respondent violates
14 Section 12-3.9 of the Criminal Code of 2012. Prosecution
15 for a violation of a stalking no contact order shall not
16 bar concurrent prosecution for any other crime, including
17 any crime that may have been committed at the time of the
18 violation of the stalking no contact order.

19 (b) When violation is contempt of court. A violation of
20 any valid protective order, whether issued in a civil or
21 criminal proceeding, may be enforced through civil or criminal
22 contempt procedures, as appropriate, by any court with
23 jurisdiction, regardless where the act or acts which violated
24 the protective order were committed, to the extent consistent
25 with the venue provisions of this Article. Nothing in this
26 Article shall preclude any Illinois court from enforcing any

1 valid protective order issued in another state. Illinois
2 courts may enforce protective orders through both criminal
3 prosecution and contempt proceedings, unless the action which
4 is second in time is barred by collateral estoppel or the
5 constitutional prohibition against double jeopardy.

6 (1) In a contempt proceeding where the petition for a
7 rule to show cause sets forth facts evidencing an
8 immediate danger that the respondent will flee the
9 jurisdiction, conceal a child, or inflict physical abuse
10 on the petitioner or minor children or on dependent adults
11 in petitioner's care, the court may order the attachment
12 of the respondent without prior service of the rule to
13 show cause or the petition for a rule to show cause. Bond
14 shall be set unless specifically denied in writing.

15 (2) A petition for a rule to show cause for violation
16 of a protective order shall be treated as an expedited
17 proceeding.

18 (c) Violation of custody, allocation of parental
19 responsibility, or support orders. A violation of remedies
20 described in paragraph ~~paragraphs~~ (5), (6), (8), or (9) of
21 subsection (b) of Section 112A-14 of this Code may be enforced
22 by any remedy provided by Section 607.5 of the Illinois
23 Marriage and Dissolution of Marriage Act. The court may
24 enforce any order for support issued under paragraph (12) of
25 subsection (b) of Section 112A-14 of this Code in the manner
26 provided for under Parts V and VII of the Illinois Marriage and

1 Dissolution of Marriage Act.

2 (d) Actual knowledge. A protective order may be enforced
3 pursuant to this Section if the respondent violates the order
4 after the respondent has actual knowledge of its contents as
5 shown through one of the following means:

6 (1) (Blank).

7 (2) (Blank).

8 (3) By service of a protective order under subsection
9 (f) of Section 112A-17.5 or Section 112A-22 of this Code.

10 (4) By other means demonstrating actual knowledge of
11 the contents of the order.

12 (e) The enforcement of a protective order in civil or
13 criminal court shall not be affected by either of the
14 following:

15 (1) The existence of a separate, correlative order
16 entered under Section 112A-15 of this Code.

17 (2) Any finding or order entered in a conjoined
18 criminal proceeding.

19 (e-5) If a civil no contact order entered under subsection
20 (6) of Section 112A-20 of the Code of Criminal Procedure of
21 1963 conflicts with an order issued pursuant to the Juvenile
22 Court Act of 1987 or the Illinois Marriage and Dissolution of
23 Marriage Act, the conflicting order issued under subsection
24 (6) of Section 112A-20 of the Code of Criminal Procedure of
25 1963 shall be void.

26 (f) Circumstances. The court, when determining whether or

1 not a violation of a protective order has occurred, shall not
2 require physical manifestations of abuse on the person of the
3 victim.

4 (g) Penalties.

5 (1) Except as provided in paragraph (3) of this
6 subsection (g), where the court finds the commission of a
7 crime or contempt of court under subsection ~~subsections~~

8 (a) or (b) of this Section, the penalty shall be the
9 penalty that generally applies in such criminal or
10 contempt proceedings, and may include one or more of the
11 following: incarceration, payment of restitution, a fine,
12 payment of attorneys' fees and costs, or community
13 service.

14 (2) The court shall hear and take into account
15 evidence of any factors in aggravation or mitigation
16 before deciding an appropriate penalty under paragraph (1)
17 of this subsection (g).

18 (3) To the extent permitted by law, the court is
19 encouraged to:

20 (i) increase the penalty for the knowing violation
21 of any protective order over any penalty previously
22 imposed by any court for respondent's violation of any
23 protective order or penal statute involving petitioner
24 as victim and respondent as defendant;

25 (ii) impose a minimum penalty of 24 hours
26 imprisonment for respondent's first violation of any

1 protective order; and

2 (iii) impose a minimum penalty of 48 hours
3 imprisonment for respondent's second or subsequent
4 violation of a protective order

5 unless the court explicitly finds that an increased
6 penalty or that period of imprisonment would be manifestly
7 unjust.

8 (4) In addition to any other penalties imposed for a
9 violation of a protective order, a criminal court may
10 consider evidence of any violations of a protective order:

11 (i) to increase, revoke, or modify the ~~conditions~~
12 ~~of pretrial release~~ bail bond on an underlying
13 criminal charge pursuant to Section 110-6 of this
14 Code;

15 (ii) to revoke or modify an order of probation,
16 conditional discharge, or supervision, pursuant to
17 Section 5-6-4 of the Unified Code of Corrections;

18 (iii) to revoke or modify a sentence of periodic
19 imprisonment, pursuant to Section 5-7-2 of the Unified
20 Code of Corrections.

21 (Source: P.A. 101-652, eff. 1-1-23; 102-184, eff. 1-1-22;
22 102-558, eff. 8-20-21; revised 10-12-21.)

23 (725 ILCS 5/114-1) (from Ch. 38, par. 114-1)
24 Sec. 114-1. Motion to dismiss charge.

25 (a) Upon the written motion of the defendant made prior to

1 trial before or after a plea has been entered the court may
2 dismiss the indictment, information or complaint upon any of
3 the following grounds:

4 (1) The defendant has not been placed on trial in
5 compliance with Section 103-5 of this Code.

6 (2) The prosecution of the offense is barred by
7 Sections 3-3 through 3-8 of the Criminal Code of 2012.

8 (3) The defendant has received immunity from
9 prosecution for the offense charged.

10 (4) The indictment was returned by a Grand Jury which
11 was improperly selected and which results in substantial
12 injustice to the defendant.

13 (5) The indictment was returned by a Grand Jury which
14 acted contrary to Article 112 of this Code and which
15 results in substantial injustice to the defendant.

16 (6) The court in which the charge has been filed does
17 not have jurisdiction.

18 (7) The county is an improper place of trial.

19 (8) The charge does not state an offense.

20 (9) The indictment is based solely upon the testimony
21 of an incompetent witness.

22 (10) The defendant is misnamed in the charge and the
23 misnomer results in substantial injustice to the
24 defendant.

25 (11) The requirements of Section 109-3.1 have not been
26 complied with.

1 (b) The court shall require any motion to dismiss to be
2 filed within a reasonable time after the defendant has been
3 arraigned. Any motion not filed within such time or an
4 extension thereof shall not be considered by the court and the
5 grounds therefor, except as to subsections (a)(6) and (a)(8)
6 of this Section, are waived.

7 (c) If the motion presents only an issue of law the court
8 shall determine it without the necessity of further pleadings.
9 If the motion alleges facts not of record in the case the State
10 shall file an answer admitting or denying each of the factual
11 allegations of the motion.

12 (d) When an issue of fact is presented by a motion to
13 dismiss and the answer of the State the court shall conduct a
14 hearing and determine the issues.

15 (d-5) When a defendant seeks dismissal of the charge upon
16 the ground set forth in subsection (a)(7) of this Section, the
17 defendant shall make a prima facie showing that the county is
18 an improper place of trial. Upon such showing, the State shall
19 have the burden of proving, by a preponderance of the
20 evidence, that the county is the proper place of trial.

21 (d-6) When a defendant seeks dismissal of the charge upon
22 the grounds set forth in subsection (a)(2) of this Section,
23 the prosecution shall have the burden of proving, by a
24 preponderance of the evidence, that the prosecution of the
25 offense is not barred by Sections 3-3 through 3-8 of the
26 Criminal Code of 2012.

1 (e) Dismissal of the charge upon the grounds set forth in
2 subsections (a)(4) through (a)(11) of this Section shall not
3 prevent the return of a new indictment or the filing of a new
4 charge, and upon such dismissal the court may order that the
5 defendant be held in custody or, if the defendant had been
6 previously released on ~~pretrial-release~~ bail, that the
7 ~~pretrial-release~~ bail be continued for a specified time
8 pending the return of a new indictment or the filing of a new
9 charge.

10 (f) If the court determines that the motion to dismiss
11 based upon the grounds set forth in subsections (a)(6) and
12 (a)(7) is well founded it may, instead of dismissal, order the
13 cause transferred to a court of competent jurisdiction or to a
14 proper place of trial.

15 (Source: P.A. 100-434, eff. 1-1-18; 101-652.)

16 (725 ILCS 5/115-4.1) (from Ch. 38, par. 115-4.1)

17 Sec. 115-4.1. Absence of defendant.

18 (a) When a defendant after arrest and an initial court
19 appearance for a non-capital felony or a misdemeanor, fails to
20 appear for trial, at the request of the State and after the
21 State has affirmatively proven through substantial evidence
22 that the defendant is willfully avoiding trial, the court may
23 commence trial in the absence of the defendant. Absence of a
24 defendant as specified in this Section shall not be a bar to
25 indictment of a defendant, return of information against a

1 defendant, or arraignment of a defendant for the charge for
2 which ~~pretrial release~~ bail has been granted. If a defendant
3 fails to appear at arraignment, the court may enter a plea of
4 "not guilty" on his behalf. If a defendant absents himself
5 before trial on a capital felony, trial may proceed as
6 specified in this Section provided that the State certifies
7 that it will not seek a death sentence following conviction.
8 Trial in the defendant's absence shall be by jury unless the
9 defendant had previously waived trial by jury. The absent
10 defendant must be represented by retained or appointed
11 counsel. The court, at the conclusion of all of the
12 proceedings, may order the clerk of the circuit court to pay
13 counsel such sum as the court deems reasonable, from any bond
14 monies which were posted by the defendant with the clerk,
15 after the clerk has first deducted all court costs. If trial
16 had previously commenced in the presence of the defendant and
17 the defendant willfully absents himself for two successive
18 court days, the court shall proceed to trial. All procedural
19 rights guaranteed by the United States Constitution,
20 Constitution of the State of Illinois, statutes of the State
21 of Illinois, and rules of court shall apply to the proceedings
22 the same as if the defendant were present in court and had not
23 either ~~had his or her pretrial release revoked~~ forfeited his
24 bail bond or escaped from custody. The court may set the case
25 for a trial which may be conducted under this Section despite
26 the failure of the defendant to appear at the hearing at which

1 the trial date is set. When such trial date is set the clerk
2 shall send to the defendant, by certified mail at his last
3 known address indicated on his bond slip, notice of the new
4 date which has been set for trial. Such notification shall be
5 required when the defendant was not personally present in open
6 court at the time when the case was set for trial.

7 (b) The absence of a defendant from a trial conducted
8 pursuant to this Section does not operate as a bar to
9 concluding the trial, to a judgment of conviction resulting
10 therefrom, or to a final disposition of the trial in favor of
11 the defendant.

12 (c) Upon a verdict of not guilty, the court shall enter
13 judgment for the defendant. Upon a verdict of guilty, the
14 court shall set a date for the hearing of post-trial motions
15 and shall hear such motion in the absence of the defendant. If
16 post-trial motions are denied, the court shall proceed to
17 conduct a sentencing hearing and to impose a sentence upon the
18 defendant.

19 (d) A defendant who is absent for part of the proceedings
20 of trial, post-trial motions, or sentencing, does not thereby
21 forfeit his right to be present at all remaining proceedings.

22 (e) When a defendant who in his absence has been either
23 convicted or sentenced or both convicted and sentenced appears
24 before the court, he must be granted a new trial or new
25 sentencing hearing if the defendant can establish that his
26 failure to appear in court was both without his fault and due

1 to circumstances beyond his control. A hearing with notice to
2 the State's Attorney on the defendant's request for a new
3 trial or a new sentencing hearing must be held before any such
4 request may be granted. At any such hearing both the defendant
5 and the State may present evidence.

6 (f) If the court grants only the defendant's request for a
7 new sentencing hearing, then a new sentencing hearing shall be
8 held in accordance with the provisions of the Unified Code of
9 Corrections. At any such hearing, both the defendant and the
10 State may offer evidence of the defendant's conduct during his
11 period of absence from the court. The court may impose any
12 sentence authorized by the Unified Code of Corrections and is
13 not in any way limited or restricted by any sentence
14 previously imposed.

15 (g) A defendant whose motion under paragraph (e) for a new
16 trial or new sentencing hearing has been denied may file a
17 notice of appeal therefrom. Such notice may also include a
18 request for review of the judgment and sentence not vacated by
19 the trial court.

20 (Source: P.A. 90-787, eff. 8-14-98; 101-652.)

21 (725 ILCS 5/122-6) (from Ch. 38, par. 122-6)

22 Sec. 122-6. Disposition in trial court.

23 The court may receive proof by affidavits, depositions,
24 oral testimony, or other evidence. In its discretion the court
25 may order the petitioner brought before the court for the

1 hearing. If the court finds in favor of the petitioner, it
2 shall enter an appropriate order with respect to the judgment
3 or sentence in the former proceedings and such supplementary
4 orders as to rearraignment, retrial, custody, ~~conditions of~~
5 ~~pretrial release~~ bail or discharge as may be necessary and
6 proper.

7 (Source: Laws 1963, p. 2836; P.A. 101-652.)

8 (725 ILCS 5/110-1.5 rep.)

9 Section 15. The Code of Criminal Procedure of 1963 is
10 amended by repealing Section 110-1.5.

11 Section 20. The Code of Criminal Procedure of 1963 is
12 amended by changing Sections 103-2, 103-3, and 108-8 as
13 follows:

14 (725 ILCS 5/103-2) (from Ch. 38, par. 103-2)

15 Sec. 103-2. Treatment while in custody.

16 (a) On being taken into custody every person shall have
17 the right to remain silent.

18 (b) No unlawful means of any kind shall be used to obtain a
19 statement, admission or confession from any person in custody.

20 (c) Persons in custody shall be treated humanely and
21 provided with proper food, shelter and, if required, medical
22 treatment ~~without unreasonable delay if the need for the~~
23 ~~treatment is apparent.~~

1 (Source: Laws 1963, p. 2836; P.A. 101-652.)

2 (725 ILCS 5/103-3) (from Ch. 38, par. 103-3)

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

4 Sec. 103-3. Right to communicate with attorney and family;
5 transfers.

6 (a) Persons who are arrested shall have the right to
7 communicate with an attorney of their choice and a member of
8 their family by making a reasonable number of telephone calls
9 or in any other reasonable manner. Such communication shall be
10 permitted within a reasonable time after arrival at the first
11 place of custody.

12 (b) In the event the accused is transferred to a new place
13 of custody his right to communicate with an attorney and a
14 member of his family is renewed.

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

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

17 Sec. 103-3. Right to communicate with attorney and family;
18 transfers.

19 (a) ~~(Blank)~~. Persons who are arrested shall have the right
20 to communicate with an attorney of their choice and a member of
21 their family by making a reasonable number of telephone calls
22 or in any other reasonable manner. Such communication shall be
23 permitted within a reasonable time after arrival at the first
24 place of custody.

1 ~~(a-5) Persons who are in police custody have the right to~~
2 ~~communicate free of charge with an attorney of their choice~~
3 ~~and members of their family as soon as possible upon being~~
4 ~~taken into police custody, but no later than three hours after~~
5 ~~arrival at the first place of custody. Persons in police~~
6 ~~eustody must be given:~~

7 ~~(1) access to use a telephone via a land line or~~
8 ~~cellular phone to make three phone calls; and~~

9 ~~(2) the ability to retrieve phone numbers contained in~~
10 ~~his or her contact list on his or her cellular phone prior~~
11 ~~to the phone being placed into inventory.~~

12 ~~(a-10) In accordance with Section 103-7, at every facility~~
13 ~~where a person is in police custody a sign containing, at~~
14 ~~minimum, the following information in bold block type must be~~
15 ~~posted in a conspicuous place:~~

16 ~~(1) a short statement notifying persons who are in~~
17 ~~police custody of their right to have access to a phone~~
18 ~~within three hours after being taken into police custody;~~
19 ~~and~~

20 ~~(2) persons who are in police custody have the right~~
21 ~~to make three phone calls within three hours after being~~
22 ~~taken into custody, at no charge.~~

23 ~~(a-15) In addition to the information listed in subsection~~
24 ~~(a-10), if the place of custody is located in a jurisdiction~~
25 ~~where the court has appointed the public defender or other~~
26 ~~attorney to represent persons who are in police custody, the~~

1 ~~telephone number to the public defender or appointed~~
2 ~~attorney's office must also be displayed. The telephone call~~
3 ~~to the public defender or other attorney must not be~~
4 ~~monitored, eavesdropped upon, or recorded.~~

5 (b) ~~(Blank)~~. In the event the accused is transferred to a
6 new place of custody his right to communicate with an attorney
7 and a member of his family is renewed.

8 ~~(c) In the event a person who is in police custody is~~
9 ~~transferred to a new place of custody, his or her right to make~~
10 ~~telephone calls under this Section within three hours after~~
11 ~~arrival is renewed.~~

12 ~~(d) In this Section "custody" means the restriction of a~~
13 ~~person's freedom of movement by a law enforcement officer's~~
14 ~~exercise of his or her lawful authority.~~

15 ~~(e) The three hours requirement shall not apply while the~~
16 ~~person in police custody is asleep, unconscious, or otherwise~~
17 ~~incapacitated.~~

18 ~~(f) Nothing in this Section shall interfere with a~~
19 ~~person's rights or override procedures required in the Bill of~~
20 ~~Rights of the Illinois and US Constitutions, including but not~~
21 ~~limited to Fourth Amendment search and seizure rights, Fifth~~
22 ~~Amendment due process rights and rights to be free from~~
23 ~~self incrimination and Sixth Amendment right to counsel.~~

24 (Source: P.A. 101-652, eff. 7-1-21.)

25 (725 ILCS 5/108-8) (from Ch. 38, par. 108-8)

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

2 Sec. 108-8. Use of force in execution of search warrant.

3 (a) All necessary and reasonable force may be used to
4 effect an entry into any building or property or part thereof
5 to execute a search warrant.

6 (b) The court issuing a warrant may authorize the officer
7 executing the warrant to make entry without first knocking and
8 announcing his or her office if it finds, based upon a showing
9 of specific facts, the existence of the following exigent
10 circumstances:

11 (1) That the officer reasonably believes that if
12 notice were given a weapon would be used:

13 (i) against the officer executing the search
14 warrant; or

15 (ii) against another person.

16 (2) That if notice were given there is an imminent
17 "danger" that evidence will be destroyed.

18 (Source: P.A. 92-502, eff. 12-19-01.)

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

20 Sec. 108-8. Use of force in execution of search warrant.

21 (a) All necessary and reasonable force may be used to
22 effect an entry into any building or property or part thereof
23 to execute a search warrant.

24 (b) The court issuing a warrant may authorize the officer
25 executing the warrant to make entry without first knocking and

1 announcing his or her office if it finds, based upon a showing
2 of specific facts, the existence of the following exigent
3 circumstances:

4 (1) That the officer reasonably believes that if
5 notice were given a weapon would be used:

6 (i) against the officer executing the search
7 warrant; or

8 (ii) against another person.

9 (2) That if notice were given there is an imminent
10 "danger" that evidence will be destroyed.

11 ~~(c) Prior to the issuing of a warrant under subsection~~
12 ~~(b), the officer must attest that:~~

13 ~~(1) prior to entering the location described in the~~
14 ~~search warrant, a supervising officer will ensure that~~
15 ~~each participating member is assigned a body worn camera~~
16 ~~and is following policies and procedures in accordance~~
17 ~~with Section 10-20 of the Law Enforcement Officer Worn~~
18 ~~Body Camera Act; provided that the law enforcement agency~~
19 ~~has implemented body worn camera in accordance with~~
20 ~~Section 10-15 of the Law Enforcement Officer Worn Body~~
21 ~~Camera Act. If a law enforcement agency has not~~
22 ~~implemented a body camera in accordance with Section 10-15~~
23 ~~of the Law Enforcement Officer Worn Body Camera Act, the~~
24 ~~officer must attest that the interaction authorized by the~~
25 ~~warrant is otherwise recorded;~~

26 ~~(2) steps were taken in planning the search to ensure~~

1 ~~accuracy and plan for children or other vulnerable people~~
2 ~~on-site; and~~

3 ~~(3) if an officer becomes aware the search warrant was~~
4 ~~executed at an address, unit, or apartment different from~~
5 ~~the location listed on the search warrant, that member~~
6 ~~will immediately notify a supervisor who will ensure an~~
7 ~~internal investigation ensues.~~

8 (Source: P.A. 101-652, eff. 7-1-21.)

9 Section 25. The Code of Criminal Procedure of 1963 is
10 amended by reenacting Sections 110-6.3, 110-6.5, 110-7, 110-8,
11 110-9, 110-13, 110-14, 110-15, 110-16, 110-17, and 110-18 as
12 follows:

13 (725 ILCS 5/110-6.3) (from Ch. 38, par. 110-6.3)

14 Sec. 110-6.3. Denial of bail in stalking and aggravated
15 stalking offenses.

16 (a) Upon verified petition by the State, the court shall
17 hold a hearing to determine whether bail should be denied to a
18 defendant who is charged with stalking or aggravated stalking,
19 when it is alleged that the defendant's admission to bail
20 poses a real and present threat to the physical safety of the
21 alleged victim of the offense, and denial of release on bail or
22 personal recognizance is necessary to prevent fulfillment of
23 the threat upon which the charge is based.

24 (1) A petition may be filed without prior notice to

1 the defendant at the first appearance before a judge, or
2 within 21 calendar days, except as provided in Section
3 110-6, after arrest and release of the defendant upon
4 reasonable notice to defendant; provided that while the
5 petition is pending before the court, the defendant if
6 previously released shall not be detained.

7 (2) The hearing shall be held immediately upon the
8 defendant's appearance before the court, unless for good
9 cause shown the defendant or the State seeks a
10 continuance. A continuance on motion of the defendant may
11 not exceed 5 calendar days, and the defendant may be held
12 in custody during the continuance. A continuance on the
13 motion of the State may not exceed 3 calendar days;
14 however, the defendant may be held in custody during the
15 continuance under this provision if the defendant has been
16 previously found to have violated an order of protection
17 or has been previously convicted of, or granted court
18 supervision for, any of the offenses set forth in Sections
19 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-2,
20 12-3.05, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-7.3, 12-7.4,
21 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code
22 of 1961 or the Criminal Code of 2012, against the same
23 person as the alleged victim of the stalking or aggravated
24 stalking offense.

25 (b) The court may deny bail to the defendant when, after
26 the hearing, it is determined that:

1 (1) the proof is evident or the presumption great that
2 the defendant has committed the offense of stalking or
3 aggravated stalking; and

4 (2) the defendant poses a real and present threat to
5 the physical safety of the alleged victim of the offense;
6 and

7 (3) the denial of release on bail or personal
8 recognizance is necessary to prevent fulfillment of the
9 threat upon which the charge is based; and

10 (4) the court finds that no condition or combination
11 of conditions set forth in subsection (b) of Section
12 110-10 of this Code, including mental health treatment at
13 a community mental health center, hospital, or facility of
14 the Department of Human Services, can reasonably assure
15 the physical safety of the alleged victim of the offense.

16 (c) Conduct of the hearings.

17 (1) The hearing on the defendant's culpability and
18 threat to the alleged victim of the offense shall be
19 conducted in accordance with the following provisions:

20 (A) Information used by the court in its findings
21 or stated in or offered at the hearing may be by way of
22 proffer based upon reliable information offered by the
23 State or by defendant. Defendant has the right to be
24 represented by counsel, and if he is indigent, to have
25 counsel appointed for him. Defendant shall have the
26 opportunity to testify, to present witnesses in his

1 own behalf, and to cross-examine witnesses if any are
2 called by the State. The defendant has the right to
3 present witnesses in his favor. When the ends of
4 justice so require, the court may exercise its
5 discretion and compel the appearance of a complaining
6 witness. The court shall state on the record reasons
7 for granting a defense request to compel the presence
8 of a complaining witness. Cross-examination of a
9 complaining witness at the pretrial detention hearing
10 for the purpose of impeaching the witness' credibility
11 is insufficient reason to compel the presence of the
12 witness. In deciding whether to compel the appearance
13 of a complaining witness, the court shall be
14 considerate of the emotional and physical well-being
15 of the witness. The pretrial detention hearing is not
16 to be used for the purposes of discovery, and the post
17 arraignment rules of discovery do not apply. The State
18 shall tender to the defendant, prior to the hearing,
19 copies of defendant's criminal history, if any, if
20 available, and any written or recorded statements and
21 the substance of any oral statements made by any
22 person, if relied upon by the State. The rules
23 concerning the admissibility of evidence in criminal
24 trials do not apply to the presentation and
25 consideration of information at the hearing. At the
26 trial concerning the offense for which the hearing was

1 conducted neither the finding of the court nor any
2 transcript or other record of the hearing shall be
3 admissible in the State's case in chief, but shall be
4 admissible for impeachment, or as provided in Section
5 115-10.1 of this Code, or in a perjury proceeding.

6 (B) A motion by the defendant to suppress evidence
7 or to suppress a confession shall not be entertained.
8 Evidence that proof may have been obtained as the
9 result of an unlawful search and seizure or through
10 improper interrogation is not relevant to this state
11 of the prosecution.

12 (2) The facts relied upon by the court to support a
13 finding that:

14 (A) the defendant poses a real and present threat
15 to the physical safety of the alleged victim of the
16 offense; and

17 (B) the denial of release on bail or personal
18 recognizance is necessary to prevent fulfillment of
19 the threat upon which the charge is based;

20 shall be supported by clear and convincing evidence
21 presented by the State.

22 (d) Factors to be considered in making a determination of
23 the threat to the alleged victim of the offense. The court may,
24 in determining whether the defendant poses, at the time of the
25 hearing, a real and present threat to the physical safety of
26 the alleged victim of the offense, consider but shall not be

1 limited to evidence or testimony concerning:

2 (1) The nature and circumstances of the offense
3 charged;

4 (2) The history and characteristics of the defendant
5 including:

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

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

16 (3) The nature of the threat which is the basis of the
17 charge against the defendant;

18 (4) Any statements made by, or attributed to the
19 defendant, together with the circumstances surrounding
20 them;

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

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

25 (7) Whether, at the time of the current offense or any
26 other offense or arrest, the defendant was on probation,

1 parole, aftercare release, mandatory supervised release or
2 other release from custody pending trial, sentencing,
3 appeal or completion of sentence for an offense under
4 federal or state law;

5 (8) Any other factors, including those listed in
6 Section 110-5 of this Code, deemed by the court to have a
7 reasonable bearing upon the defendant's propensity or
8 reputation for violent, abusive or assaultive behavior, or
9 lack of that behavior.

10 (e) The court shall, in any order denying bail to a person
11 charged with stalking or aggravated stalking:

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

15 (2) direct that the defendant be committed to the
16 custody of the sheriff for confinement in the county jail
17 pending trial;

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

22 (4) direct that the sheriff deliver the defendant as
23 required for appearances in connection with court
24 proceedings.

25 (f) If the court enters an order for the detention of the
26 defendant under subsection (e) of this Section, the defendant

1 shall be brought to trial on the offense for which he is
2 detained within 90 days after the date on which the order for
3 detention was entered. If the defendant is not brought to
4 trial within the 90 day period required by this subsection
5 (f), he shall not be held longer without bail. In computing the
6 90 day period, the court shall omit any period of delay
7 resulting from a continuance granted at the request of the
8 defendant. The court shall immediately notify the alleged
9 victim of the offense that the defendant has been admitted to
10 bail under this subsection.

11 (g) Any person shall be entitled to appeal any order
12 entered under this Section denying bail to the defendant.

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

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

18 (Source: P.A. 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13;
19 98-558, eff. 1-1-14; 101-652, eff. 7-1-21.)

20 (725 ILCS 5/110-6.5)

21 Sec. 110-6.5. Drug testing program. The Chief Judge of the
22 circuit may establish a drug testing program as provided by
23 this Section in any county in the circuit if the county board
24 has approved the establishment of the program and the county
25 probation department or pretrial services agency has consented

1 to administer it. The drug testing program shall be conducted
2 under the following provisions:

3 (a) The court, in the case of a defendant charged with a
4 felony offense or any offense involving the possession or
5 delivery of cannabis or a controlled substance, shall:

6 (1) not consider the release of the defendant on his
7 or her own recognizance, unless the defendant consents to
8 periodic drug testing during the period of release on his
9 or her own recognizance, in accordance with this Section;

10 (2) consider the consent of the defendant to periodic
11 drug testing during the period of release on bail in
12 accordance with this Section as a favorable factor for the
13 defendant in determining the amount of bail, the
14 conditions of release or in considering the defendant's
15 motion to reduce the amount of bail.

16 (b) The drug testing shall be conducted by the pretrial
17 services agency or under the direction of the probation
18 department when a pretrial services agency does not exist in
19 accordance with this Section.

20 (c) A defendant who consents to periodic drug testing as
21 set forth in this Section shall sign an agreement with the
22 court that, during the period of release, the defendant shall
23 refrain from using illegal drugs and that the defendant will
24 comply with the conditions of the testing program. The
25 agreement shall be on a form prescribed by the court and shall
26 be executed at the time of the bail hearing. This agreement

1 shall be made a specific condition of bail.

2 (d) The drug testing program shall be conducted as
3 follows:

4 (1) The testing shall be done by urinalysis for the
5 detection of phencyclidine, heroin, cocaine, methadone and
6 amphetamines.

7 (2) The collection of samples shall be performed under
8 reasonable and sanitary conditions.

9 (3) Samples shall be collected and tested with due
10 regard for the privacy of the individual being tested and
11 in a manner reasonably calculated to prevent substitutions
12 or interference with the collection or testing of reliable
13 samples.

14 (4) Sample collection shall be documented, and the
15 documentation procedures shall include:

16 (i) Labeling of samples so as to reasonably
17 preclude the probability of erroneous identification
18 of test results; and

19 (ii) An opportunity for the defendant to provide
20 information on the identification of prescription or
21 nonprescription drugs used in connection with a
22 medical condition.

23 (5) Sample collection, storage, and transportation to
24 the place of testing shall be performed so as to
25 reasonably preclude the probability of sample
26 contamination or adulteration.

1 (6) Sample testing shall conform to scientifically
2 accepted analytical methods and procedures. Testing shall
3 include verification or confirmation of any positive test
4 result by a reliable analytical method before the result
5 of any test may be used as a basis for any action by the
6 court.

7 (e) The initial sample shall be collected before the
8 defendant's release on bail. Thereafter, the defendant shall
9 report to the pretrial services agency or probation department
10 as required by the agency or department. The pretrial services
11 agency or probation department shall immediately notify the
12 court of any defendant who fails to report for testing.

13 (f) After the initial test, a subsequent confirmed
14 positive test result indicative of continued drug use shall
15 result in the following:

16 (1) Upon the first confirmed positive test result, the
17 pretrial services agency or probation department, shall
18 place the defendant on a more frequent testing schedule
19 and shall warn the defendant of the consequences of
20 continued drug use.

21 (2) A second confirmed positive test result shall be
22 grounds for a hearing before the judge who authorized the
23 release of the defendant in accordance with the provisions
24 of subsection (g) of this Section.

25 (g) The court shall, upon motion of the State or upon its
26 own motion, conduct a hearing in connection with any defendant

1 who fails to appear for testing, fails to cooperate with the
2 persons conducting the testing program, attempts to submit a
3 sample not his or her own or has had a confirmed positive test
4 result indicative of continued drug use for the second or
5 subsequent time after the initial test. The hearing shall be
6 conducted in accordance with the procedures of Section 110-6.

7 Upon a finding by the court that the State has established
8 by clear and convincing evidence that the defendant has
9 violated the drug testing conditions of bail, the court may
10 consider any of the following sanctions:

11 (1) increase the amount of the defendant's bail or
12 conditions of release;

13 (2) impose a jail sentence of up to 5 days;

14 (3) revoke the defendant's bail; or

15 (4) enter such other orders which are within the power
16 of the court as deemed appropriate.

17 (h) The results of any drug testing conducted under this
18 Section shall not be admissible on the issue of the
19 defendant's guilt in connection with any criminal charge.

20 (i) The court may require that the defendant pay for the
21 cost of drug testing.

22 (Source: P.A. 88-677, eff. 12-15-94; 101-652, eff. 7-1-21.)

23 (725 ILCS 5/110-7) (from Ch. 38, par. 110-7)

24 Sec. 110-7. Deposit of bail security.

25 (a) The person for whom bail has been set shall execute the

1 bail bond and deposit with the clerk of the court before which
2 the proceeding is pending a sum of money equal to 10% of the
3 bail, but in no event shall such deposit be less than \$25. The
4 clerk of the court shall provide a space on each form for a
5 person other than the accused who has provided the money for
6 the posting of bail to so indicate and a space signed by an
7 accused who has executed the bail bond indicating whether a
8 person other than the accused has provided the money for the
9 posting of bail. The form shall also include a written notice
10 to such person who has provided the defendant with the money
11 for the posting of bail indicating that the bail may be used to
12 pay costs, attorney's fees, fines, or other purposes
13 authorized by the court and if the defendant fails to comply
14 with the conditions of the bail bond, the court shall enter an
15 order declaring the bail to be forfeited. The written notice
16 must be: (1) distinguishable from the surrounding text; (2) in
17 bold type or underscored; and (3) in a type size at least 2
18 points larger than the surrounding type. When a person for
19 whom bail has been set is charged with an offense under the
20 Illinois Controlled Substances Act or the Methamphetamine
21 Control and Community Protection Act which is a Class X
22 felony, or making a terrorist threat in violation of Section
23 29D-20 of the Criminal Code of 1961 or the Criminal Code of
24 2012 or an attempt to commit the offense of making a terrorist
25 threat, the court may require the defendant to deposit a sum
26 equal to 100% of the bail. Where any person is charged with a

1 forcible felony while free on bail and is the subject of
2 proceedings under Section 109-3 of this Code the judge
3 conducting the preliminary examination may also conduct a
4 hearing upon the application of the State pursuant to the
5 provisions of Section 110-6 of this Code to increase or revoke
6 the bail for that person's prior alleged offense.

7 (b) Upon depositing this sum and any bond fee authorized
8 by law, the person shall be released from custody subject to
9 the conditions of the bail bond.

10 (c) Once bail has been given and a charge is pending or is
11 thereafter filed in or transferred to a court of competent
12 jurisdiction the latter court shall continue the original bail
13 in that court subject to the provisions of Section 110-6 of
14 this Code.

15 (d) After conviction the court may order that the original
16 bail stand as bail pending appeal or deny, increase or reduce
17 bail subject to the provisions of Section 110-6.2.

18 (e) After the entry of an order by the trial court allowing
19 or denying bail pending appeal either party may apply to the
20 reviewing court having jurisdiction or to a justice thereof
21 sitting in vacation for an order increasing or decreasing the
22 amount of bail or allowing or denying bail pending appeal
23 subject to the provisions of Section 110-6.2.

24 (f) When the conditions of the bail bond have been
25 performed and the accused has been discharged from all
26 obligations in the cause the clerk of the court shall return to

1 the accused or to the defendant's designee by an assignment
2 executed at the time the bail amount is deposited, unless the
3 court orders otherwise, 90% of the sum which had been
4 deposited and shall retain as bail bond costs 10% of the amount
5 deposited. However, in no event shall the amount retained by
6 the clerk as bail bond costs be less than \$5. Notwithstanding
7 the foregoing, in counties with a population of 3,000,000 or
8 more, in no event shall the amount retained by the clerk as
9 bail bond costs exceed \$100. Bail bond deposited by or on
10 behalf of a defendant in one case may be used, in the court's
11 discretion, to satisfy financial obligations of that same
12 defendant incurred in a different case due to a fine, court
13 costs, restitution or fees of the defendant's attorney of
14 record. In counties with a population of 3,000,000 or more,
15 the court shall not order bail bond deposited by or on behalf
16 of a defendant in one case to be used to satisfy financial
17 obligations of that same defendant in a different case until
18 the bail bond is first used to satisfy court costs and
19 attorney's fees in the case in which the bail bond has been
20 deposited and any other unpaid child support obligations are
21 satisfied. In counties with a population of less than
22 3,000,000, the court shall not order bail bond deposited by or
23 on behalf of a defendant in one case to be used to satisfy
24 financial obligations of that same defendant in a different
25 case until the bail bond is first used to satisfy court costs
26 in the case in which the bail bond has been deposited.

1 At the request of the defendant the court may order such
2 90% of defendant's bail deposit, or whatever amount is
3 repayable to defendant from such deposit, to be paid to
4 defendant's attorney of record.

5 (g) If the accused does not comply with the conditions of
6 the bail bond the court having jurisdiction shall enter an
7 order declaring the bail to be forfeited. Notice of such order
8 of forfeiture shall be mailed forthwith to the accused at his
9 last known address. If the accused does not appear and
10 surrender to the court having jurisdiction within 30 days from
11 the date of the forfeiture or within such period satisfy the
12 court that appearance and surrender by the accused is
13 impossible and without his fault the court shall enter
14 judgment for the State if the charge for which the bond was
15 given was a felony or misdemeanor, or if the charge was
16 quasi-criminal or traffic, judgment for the political
17 subdivision of the State which prosecuted the case, against
18 the accused for the amount of the bail and costs of the court
19 proceedings; however, in counties with a population of less
20 than 3,000,000, instead of the court entering a judgment for
21 the full amount of the bond the court may, in its discretion,
22 enter judgment for the cash deposit on the bond, less costs,
23 retain the deposit for further disposition or, if a cash bond
24 was posted for failure to appear in a matter involving
25 enforcement of child support or maintenance, the amount of the
26 cash deposit on the bond, less outstanding costs, may be

1 awarded to the person or entity to whom the child support or
2 maintenance is due. The deposit made in accordance with
3 paragraph (a) shall be applied to the payment of costs. If
4 judgment is entered and any amount of such deposit remains
5 after the payment of costs it shall be applied to payment of
6 the judgment and transferred to the treasury of the municipal
7 corporation wherein the bond was taken if the offense was a
8 violation of any penal ordinance of a political subdivision of
9 this State, or to the treasury of the county wherein the bond
10 was taken if the offense was a violation of any penal statute
11 of this State. The balance of the judgment may be enforced and
12 collected in the same manner as a judgment entered in a civil
13 action.

14 (h) After a judgment for a fine and court costs or either
15 is entered in the prosecution of a cause in which a deposit had
16 been made in accordance with paragraph (a) the balance of such
17 deposit, after deduction of bail bond costs, shall be applied
18 to the payment of the judgment.

19 (i) When a court appearance is required for an alleged
20 violation of the Criminal Code of 1961, the Criminal Code of
21 2012, the Illinois Vehicle Code, the Wildlife Code, the Fish
22 and Aquatic Life Code, the Child Passenger Protection Act, or
23 a comparable offense of a unit of local government as
24 specified in Supreme Court Rule 551, and if the accused does
25 not appear in court on the date set for appearance or any date
26 to which the case may be continued and the court issues an

1 arrest warrant for the accused, based upon his or her failure
2 to appear when having so previously been ordered to appear by
3 the court, the accused upon his or her admission to bail shall
4 be assessed by the court a fee of \$75. Payment of the fee shall
5 be a condition of release unless otherwise ordered by the
6 court. The fee shall be in addition to any bail that the
7 accused is required to deposit for the offense for which the
8 accused has been charged and may not be used for the payment of
9 court costs or fines assessed for the offense. The clerk of the
10 court shall remit \$70 of the fee assessed to the arresting
11 agency who brings the offender in on the arrest warrant. If the
12 Department of State Police is the arresting agency, \$70 of the
13 fee assessed shall be remitted by the clerk of the court to the
14 State Treasurer within one month after receipt for deposit
15 into the State Police Operations Assistance Fund. The clerk of
16 the court shall remit \$5 of the fee assessed to the Circuit
17 Court Clerk Operation and Administrative Fund as provided in
18 Section 27.3d of the Clerks of Courts Act.

19 (Source: P.A. 99-412, eff. 1-1-16; 101-652, eff. 7-1-21.)

20 (725 ILCS 5/110-8) (from Ch. 38, par. 110-8)

21 Sec. 110-8. Cash, stocks, bonds and real estate as
22 security for bail.

23 (a) In lieu of the bail deposit provided for in Section
24 110-7 of this Code any person for whom bail has been set may
25 execute the bail bond with or without sureties which bond may

1 be secured:

2 (1) By a deposit, with the clerk of the court, of an amount
3 equal to the required bail, of cash, or stocks and bonds in
4 which trustees are authorized to invest trust funds under the
5 laws of this State; or

6 (2) By real estate situated in this State with
7 unencumbered equity not exempt owned by the accused or
8 sureties worth double the amount of bail set in the bond.

9 (b) If the bail bond is secured by stocks and bonds the
10 accused or sureties shall file with the bond a sworn schedule
11 which shall be approved by the court and shall contain:

12 (1) A list of the stocks and bonds deposited
13 describing each in sufficient detail that it may be
14 identified;

15 (2) The market value of each stock and bond;

16 (3) The total market value of the stocks and bonds
17 listed;

18 (4) A statement that the affiant is the sole owner of
19 the stocks and bonds listed and they are not exempt from
20 the enforcement of a judgment thereon;

21 (5) A statement that such stocks and bonds have not
22 previously been used or accepted as bail in this State
23 during the 12 months preceding the date of the bail bond;
24 and

25 (6) A statement that such stocks and bonds are
26 security for the appearance of the accused in accordance

1 with the conditions of the bail bond.

2 (c) If the bail bond is secured by real estate the accused
3 or sureties shall file with the bond a sworn schedule which
4 shall contain:

5 (1) A legal description of the real estate;

6 (2) A description of any and all encumbrances on the
7 real estate including the amount of each and the holder
8 thereof;

9 (3) The market value of the unencumbered equity owned
10 by the affiant;

11 (4) A statement that the affiant is the sole owner of
12 such unencumbered equity and that it is not exempt from
13 the enforcement of a judgment thereon;

14 (5) A statement that the real estate has not
15 previously been used or accepted as bail in this State
16 during the 12 months preceding the date of the bail bond;
17 and

18 (6) A statement that the real estate is security for
19 the appearance of the accused in accordance with the
20 conditions of the bail bond.

21 (d) The sworn schedule shall constitute a material part of
22 the bail bond. The affiant commits perjury if in the sworn
23 schedule he makes a false statement which he does not believe
24 to be true. He shall be prosecuted and punished accordingly,
25 or, he may be punished for contempt.

26 (e) A certified copy of the bail bond and schedule of real

1 estate shall be filed immediately in the office of the
2 registrar of titles or recorder of the county in which the real
3 estate is situated and the State shall have a lien on such real
4 estate from the time such copies are filed in the office of the
5 registrar of titles or recorder. The registrar of titles or
6 recorder shall enter, index and record (or register as the
7 case may be) such bail bonds and schedules without requiring
8 any advance fee, which fee shall be taxed as costs in the
9 proceeding and paid out of such costs when collected.

10 (f) When the conditions of the bail bond have been
11 performed and the accused has been discharged from his
12 obligations in the cause, the clerk of the court shall return
13 to him or his sureties the deposit of any cash, stocks or
14 bonds. If the bail bond has been secured by real estate the
15 clerk of the court shall forthwith notify in writing the
16 registrar of titles or recorder and the lien of the bail bond
17 on the real estate shall be discharged.

18 (g) If the accused does not comply with the conditions of
19 the bail bond the court having jurisdiction shall enter an
20 order declaring the bail to be forfeited. Notice of such order
21 of forfeiture shall be mailed forthwith by the clerk of the
22 court to the accused and his sureties at their last known
23 address. If the accused does not appear and surrender to the
24 court having jurisdiction within 30 days from the date of the
25 forfeiture or within such period satisfy the court that
26 appearance and surrender by the accused is impossible and

1 without his fault the court shall enter judgment for the State
2 against the accused and his sureties for the amount of the bail
3 and costs of the proceedings; however, in counties with a
4 population of less than 3,000,000, if the defendant has posted
5 a cash bond, instead of the court entering a judgment for the
6 full amount of the bond the court may, in its discretion, enter
7 judgment for the cash deposit on the bond, less costs, retain
8 the deposit for further disposition or, if a cash bond was
9 posted for failure to appear in a matter involving enforcement
10 of child support or maintenance, the amount of the cash
11 deposit on the bond, less outstanding costs, may be awarded to
12 the person or entity to whom the child support or maintenance
13 is due.

14 (h) When judgment is entered in favor of the State on any
15 bail bond given for a felony or misdemeanor, or judgement for a
16 political subdivision of the state on any bail bond given for a
17 quasi-criminal or traffic offense, the State's Attorney or
18 political subdivision's attorney shall forthwith obtain a
19 certified copy of the judgment and deliver same to the sheriff
20 to be enforced by levy on the stocks or bonds deposited with
21 the clerk of the court and the real estate described in the
22 bail bond schedule. Any cash forfeited under subsection (g) of
23 this Section shall be used to satisfy the judgment and costs
24 and, without necessity of levy, ordered paid into the treasury
25 of the municipal corporation wherein the bail bond was taken
26 if the offense was a violation of any penal ordinance of a

1 political subdivision of this State, or into the treasury of
2 the county wherein the bail bond was taken if the offense was a
3 violation of any penal statute of this State, or to the person
4 or entity to whom child support or maintenance is owed if the
5 bond was taken for failure to appear in a matter involving
6 child support or maintenance. The stocks, bonds and real
7 estate shall be sold in the same manner as in sales for the
8 enforcement of a judgment in civil actions and the proceeds of
9 such sale shall be used to satisfy all court costs, prior
10 encumbrances, if any, and from the balance a sufficient amount
11 to satisfy the judgment shall be paid into the treasury of the
12 municipal corporation wherein the bail bond was taken if the
13 offense was a violation of any penal ordinance of a political
14 subdivision of this State, or into the treasury of the county
15 wherein the bail bond was taken if the offense was a violation
16 of any penal statute of this State. The balance shall be
17 returned to the owner. The real estate so sold may be redeemed
18 in the same manner as real estate may be redeemed after
19 judicial sales or sales for the enforcement of judgments in
20 civil actions.

21 (i) No stocks, bonds or real estate may be used or accepted
22 as bail bond security in this State more than once in any 12
23 month period.

24 (Source: P.A. 89-469, eff. 1-1-97; 101-652, eff. 7-1-21.)

25 (725 ILCS 5/110-9) (from Ch. 38, par. 110-9)

1 Sec. 110-9. Taking of bail by peace officer. When bail has
2 been set by a judicial officer for a particular offense or
3 offender any sheriff or other peace officer may take bail in
4 accordance with the provisions of Section 110-7 or 110-8 of
5 this Code and release the offender to appear in accordance
6 with the conditions of the bail bond, the Notice to Appear or
7 the Summons. The officer shall give a receipt to the offender
8 for the bail so taken and within a reasonable time deposit such
9 bail with the clerk of the court having jurisdiction of the
10 offense. A sheriff or other peace officer taking bail in
11 accordance with the provisions of Section 110-7 or 110-8 of
12 this Code shall accept payments made in the form of currency,
13 and may accept other forms of payment as the sheriff shall by
14 rule authorize. For purposes of this Section, "currency" has
15 the meaning provided in subsection (a) of Section 3 of the
16 Currency Reporting Act.

17 (Source: P.A. 99-618, eff. 1-1-17; 101-652, eff. 7-1-21.)

18 (725 ILCS 5/110-13) (from Ch. 38, par. 110-13)

19 Sec. 110-13. Persons prohibited from furnishing bail
20 security. No attorney at law practicing in this State and no
21 official authorized to admit another to bail or to accept bail
22 shall furnish any part of any security for bail in any criminal
23 action or any proceeding nor shall any such person act as
24 surety for any accused admitted to bail.

25 (Source: Laws 1963, p. 2836; 101-652, eff. 7-1-21.)

1 (725 ILCS 5/110-14) (from Ch. 38, par. 110-14)

2 Sec. 110-14. Credit for incarceration on bailable offense;
3 credit against monetary bail for certain offenses.

4 (a) Any person incarcerated on a bailable offense who does
5 not supply bail and against whom a fine is levied on conviction
6 of the offense shall be allowed a credit of \$30 for each day so
7 incarcerated upon application of the defendant. However, in no
8 case shall the amount so allowed or credited exceed the amount
9 of the fine.

10 (b) Subsection (a) does not apply to a person incarcerated
11 for sexual assault as defined in paragraph (1) of subsection
12 (a) of Section 5-9-1.7 of the Unified Code of Corrections.

13 (c) A person subject to bail on a Category B offense shall
14 have \$30 deducted from his or her 10% cash bond amount every
15 day the person is incarcerated. The sheriff shall calculate
16 and apply this \$30 per day reduction and send notice to the
17 circuit clerk if a defendant's 10% cash bond amount is reduced
18 to \$0, at which point the defendant shall be released upon his
19 or her own recognizance.

20 (d) The court may deny the incarceration credit in
21 subsection (c) of this Section if the person has failed to
22 appear as required before the court and is incarcerated based
23 on a warrant for failure to appear on the same original
24 criminal offense.

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

1 101-408, eff. 1-1-20; 101-652, eff. 7-1-21.)

2 (725 ILCS 5/110-15) (from Ch. 38, par. 110-15)

3 Sec. 110-15. Applicability of provisions for giving and
4 taking bail. The provisions of Sections 110-7 and 110-8 of
5 this Code are exclusive of other provisions of law for the
6 giving, taking, or enforcement of bail. In all cases where a
7 person is admitted to bail the provisions of Sections 110-7
8 and 110-8 of this Code shall be applicable.

9 However, the Supreme Court may, by rule or order,
10 prescribe a uniform schedule of amounts of bail in all but
11 felony offenses. The uniform schedule shall not require a
12 person cited for violating the Illinois Vehicle Code or a
13 similar provision of a local ordinance for which a violation
14 is a petty offense as defined by Section 5-1-17 of the Unified
15 Code of Corrections, excluding business offenses as defined by
16 Section 5-1-2 of the Unified Code of Corrections or a
17 violation of Section 15-111 or subsection (d) of Section 3-401
18 of the Illinois Vehicle Code, to post bond to secure bail for
19 his or her release. Such uniform schedule may provide that the
20 cash deposit provisions of Section 110-7 shall not apply to
21 bail amounts established for alleged violations punishable by
22 fine alone, and the schedule may further provide that in
23 specified traffic cases a valid Illinois chauffeur's or
24 operator's license must be deposited, in addition to 10% of
25 the amount of the bail specified in the schedule.

1 (Source: P.A. 98-870, eff. 1-1-15; 98-1134, eff. 1-1-15;
2 101-652, eff. 7-1-21.)

3 (725 ILCS 5/110-16) (from Ch. 38, par. 110-16)

4 Sec. 110-16. Bail bond-forfeiture in same case or absents
5 self during trial-not bailable. If a person admitted to bail
6 on a felony charge forfeits his bond and fails to appear in
7 court during the 30 days immediately after such forfeiture, on
8 being taken into custody thereafter he shall not be bailable
9 in the case in question, unless the court finds that his
10 absence was not for the purpose of obstructing justice or
11 avoiding prosecution.

12 (Source: P.A. 77-1447; 101-652, eff. 7-1-21.)

13 (725 ILCS 5/110-17) (from Ch. 38, par. 110-17)

14 Sec. 110-17. Unclaimed bail deposits. Any sum of money
15 deposited by any person to secure his or her release from
16 custody which remains unclaimed by the person entitled to its
17 return for 3 years after the conditions of the bail bond have
18 been performed and the accused has been discharged from all
19 obligations in the cause shall be presumed to be abandoned and
20 subject to disposition under the Revised Uniform Unclaimed
21 Property Act.

22 (Source: P.A. 100-22, eff. 1-1-18; 100-929, eff. 1-1-19;
23 101-81, eff. 7-12-19; 101-652, eff. 7-1-21.)

1 (725 ILCS 5/110-18) (from Ch. 38, par. 110-18)

2 Sec. 110-18. Reimbursement. The sheriff of each county
3 shall certify to the treasurer of each county the number of
4 days that persons had been detained in the custody of the
5 sheriff without a bond being set as a result of an order
6 entered pursuant to Section 110-6.1 of this Code. The county
7 treasurer shall, no later than January 1, annually certify to
8 the Supreme Court the number of days that persons had been
9 detained without bond during the twelve-month period ending
10 November 30. The Supreme Court shall reimburse, from funds
11 appropriated to it by the General Assembly for such purposes,
12 the treasurer of each county an amount of money for deposit in
13 the county general revenue fund at a rate of \$50 per day for
14 each day that persons were detained in custody without bail as
15 a result of an order entered pursuant to Section 110-6.1 of
16 this Code.

17 (Source: P.A. 85-892; 101-652, eff. 7-1-21.)

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

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.

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