



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4051

Introduced 4/27/2023, by Rep. Dennis Tipsword, Jr. - Patrick Windhorst and Kevin Schmidt

SYNOPSIS AS INTRODUCED:

725 ILCS 5/109-2

from Ch. 38, par. 109-2

Amends the Code of Criminal Procedure of 1963. Provides that, if a person is arrested in any county and the prosecutor files criminal charges based on that arrest and warrants for arrest issued by any other Illinois county exist for that person, then the court in the arresting county shall first hold, for that person, a detention hearing or other conditions of release hearing for the newly filed charges. Provides that, if a person has a warrant in another county for an offense, then, no later than 5 calendar days after the end of any detention issued on the charge in the arresting county, the county in which the warrant is outstanding may authorize the person's release from custody pursuant to a notice to appear in court in the issuing county on a date and time provided by the court in the issuing county. Makes other changes in these cases.

LRB103 31724 RLC 60306 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 109-2 as follows:

6 (725 ILCS 5/109-2) (from Ch. 38, par. 109-2)

7 Sec. 109-2. Person arrested in another county.

8 (a) Any person arrested in a county other than the one in
9 which a warrant for his arrest was issued shall be taken
10 without unnecessary delay before the nearest and most
11 accessible judge in the county where the arrest was made or, if
12 no additional delay is created, before the nearest and most
13 accessible judge in the county from which the warrant was
14 issued. The judge may hold a hearing to determine if the
15 defendant is the same person as named in the warrant.

16 (b) Notwithstanding the provisions of subsection (a), any
17 person arrested in a county other than the one in which a
18 warrant for his arrest was issued, may waive the right to be
19 taken before a judge in the county where the arrest was made.
20 If a person so arrested waives such right, the arresting
21 agency shall surrender such person to a law enforcement agency
22 of the county that issued the warrant without unnecessary
23 delay. The provisions of Section 109-1 shall then apply to the

1 person so arrested.

2 (c) If a person is arrested in any county and the
3 prosecutor files criminal charges based on that arrest and
4 warrants is taken before a judge in any county and a warrant
5 for arrest issued by any other ~~another~~ Illinois county exist
6 ~~exists~~ for that person, the court in the arresting county
7 shall first hold for that person a detention hearing under
8 Section 110-6.1, or other hearing under Section 110-5 or
9 Section 110-6, for the newly filed charges in that county.

10 (d) After the court in the arresting county has determined
11 whether the person shall be released or detained on the newly
12 filed charges in that county pursuant to subsection (c)
13 ~~arresting offense~~, the court shall then order the sheriff to
14 immediately contact the sheriff in any county where any
15 warrant is outstanding and notify them of the arrest of the
16 individual.

17 (e) If a person has a warrant in another county for an
18 offense, then, no later than 5 calendar days after the end of
19 any detention issued on the charge in the arresting county,
20 the county where the warrant is outstanding shall do one of the
21 following:

22 (1) transport the person to the county where the
23 warrant was issued for a hearing under Section 110-6 or
24 110-6.1 in the matter for which the warrant was issued; ~~or~~

25 (2) quash the warrant and order the person released on
26 the case for which the warrant was issued only when the

1 county that issued the warrant fails to transport the
2 defendant in the timeline as proscribed; or

3 (3) authorize the person's release from custody
4 pursuant to a notice to appear in court in the issuing
5 county on a date and time provided by the court in the
6 issuing county.

7 (f) (Blank). ~~If the issuing county fails to take any~~
8 ~~action under subsection (c) within 5 calendar days, the~~
9 ~~defendant shall be released from custody on the warrant, and~~
10 ~~the circuit judge or associate circuit judge in the county of~~
11 ~~arrest shall set conditions of release under Section 110-5 and~~
12 ~~shall admit the defendant to pretrial release for his or her~~
13 ~~appearance before the court named in the warrant. Upon~~
14 ~~releasing the defendant, the circuit judge or associate~~
15 ~~circuit judge shall certify such a fact on the warrant and~~
16 ~~deliver the warrant and the acknowledgment by the defendant of~~
17 ~~his or her receiving the conditions of pretrial release to the~~
18 ~~officer having charge of the defendant from arrest and without~~
19 ~~delay deliver such warrant and such acknowledgment by the~~
20 ~~defendant of his or her receiving the conditions to the court~~
21 ~~before which the defendant is required to appear.~~

22 (g) (Blank). ~~If a person has a warrant in another county,~~
23 ~~in lieu of transporting the person to the issuing county as~~
24 ~~outlined in subsection (c), the issuing county may hold the~~
25 ~~hearing by way of a two-way audio-visual communication system~~
26 ~~if the accused waives the right to be physically present in~~

1 ~~court, the court determines that the physical health and~~
2 ~~safety of any person necessary to the proceedings would be~~
3 ~~endangered by appearing in court, or the chief judge of the~~
4 ~~circuit orders use of that system due to operational~~
5 ~~challenges in conducting the hearing in person. Such~~
6 ~~operational challenges must be documented and approved by the~~
7 ~~chief judge of the circuit, and a plan to address the~~
8 ~~challenges through reasonable efforts must be presented and~~
9 ~~approved by the Administrative Office of the Illinois Courts~~
10 ~~every 6 months.~~

11 (h) (Blank). ~~If more than 2 Illinois county warrants~~
12 ~~exist, the judge in the county of arrest shall order that the~~
13 ~~process described in subsections (d) through (f) occur in each~~
14 ~~county in whatever order the judge finds most appropriate.~~
15 ~~Each judge in each subsequent county shall then follow the~~
16 ~~rules in this Section.~~

17 (i) This Section applies only to warrants issued by
18 Illinois state, county, or municipal courts.

19 (j) When an issuing agency is contacted by an out-of-state
20 agency of a person arrested for any offense, or when an
21 arresting agency is contacted by or contacts an out-of-state
22 issuing agency, the Uniform Criminal Extradition Act shall
23 govern.

24 (Source: P.A. 101-652, eff. 1-1-23; 102-1104, eff. 1-1-23.)