



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4877

Introduced 2/7/2024, by Rep. Jackie Haas

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-204.1
725 ILCS 5/110-6.1

from Ch. 95 1/2, par. 11-204.1
from Ch. 38, par. 110-6.1

Amends the Illinois Vehicle Code. Increases the penalties for aggravated fleeing or attempting to elude a peace officer from a Class 4 felony for a first violation to a Class 2 felony and from a Class 3 violation for a second or subsequent offense to a Class 1 felony. Amends the Code of Criminal Procedure of 1963. Defines "forcible felony" for the purposes of detainable offenses to include aggravated fleeing or attempting to elude a peace officer.

LRB103 36572 RLC 66680 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 Illinois Vehicle Code is amended by
5 changing Section 11-204.1 as follows:

6 (625 ILCS 5/11-204.1) (from Ch. 95 1/2, par. 11-204.1)

7 Sec. 11-204.1. Aggravated fleeing or attempting to elude a
8 peace officer.

9 (a) The offense of aggravated fleeing or attempting to
10 elude a peace officer is committed by any driver or operator of
11 a motor vehicle who flees or attempts to elude a peace officer,
12 after being given a visual or audible signal by a peace officer
13 in the manner prescribed in subsection (a) of Section 11-204
14 of this Code, and such flight or attempt to elude:

15 (1) is at a rate of speed at least 21 miles per hour
16 over the legal speed limit;

17 (2) causes bodily injury to any individual;

18 (3) causes damage in excess of \$300 to property;

19 (4) involves disobedience of 2 or more official
20 traffic control devices; or

21 (5) involves the concealing or altering of the
22 vehicle's registration plate or digital registration
23 plate.

1 (b) Any person convicted of a first violation of this
2 Section shall be guilty of a Class 2 ~~4~~ felony. Upon notice of
3 such a conviction the Secretary of State shall forthwith
4 revoke the driver's license of the person so convicted, as
5 provided in Section 6-205 of this Code. Any person convicted
6 of a second or subsequent violation of this Section shall be
7 guilty of a Class 1 ~~3~~ felony, and upon notice of such a
8 conviction the Secretary of State shall forthwith revoke the
9 driver's license of the person convicted, as provided in
10 Section 6-205 of the Code.

11 (c) The motor vehicle used in a violation of this Section
12 is subject to seizure and forfeiture as provided in Sections
13 36-1 and 36-2 of the Criminal Code of 2012.

14 (Source: P.A. 101-395, eff. 8-16-19.)

15 Section 10. The Code of Criminal Procedure of 1963 is
16 amended by changing Section 110-6.1 as follows:

17 (725 ILCS 5/110-6.1) (from Ch. 38, par. 110-6.1)

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

19 (a) Upon verified petition by the State, the court shall
20 hold a hearing and may deny a defendant pretrial release only
21 if:

22 (1) the defendant is charged with a felony offense
23 other than a forcible felony for which, based on the
24 charge or the defendant's criminal history, a sentence of

1 imprisonment, without probation, periodic imprisonment or
2 conditional discharge, is required by law upon conviction,
3 and it is alleged that the defendant's pretrial release
4 poses a real and present threat to the safety of any person
5 or persons or the community, based on the specific
6 articulable facts of the case;

7 (1.5) the defendant's pretrial release poses a real
8 and present threat to the safety of any person or persons
9 or the community, based on the specific articulable facts
10 of the case, and the defendant is charged with a forcible
11 felony, which as used in this Section, means aggravated
12 fleeing or attempting to elude a peace officer, treason,
13 first degree murder, second degree murder, predatory
14 criminal sexual assault of a child, aggravated criminal
15 sexual assault, criminal sexual assault, armed robbery,
16 aggravated robbery, robbery, burglary where there is use
17 of force against another person, residential burglary,
18 home invasion, vehicular invasion, aggravated arson,
19 arson, aggravated kidnaping, kidnaping, aggravated battery
20 resulting in great bodily harm or permanent disability or
21 disfigurement or any other felony which involves the
22 threat of or infliction of great bodily harm or permanent
23 disability or disfigurement;

24 (2) the defendant is charged with stalking or
25 aggravated stalking, and it is alleged that the
26 defendant's pre-trial release poses a real and present

1 threat to the safety of a victim of the alleged offense,
2 and denial of release is necessary to prevent fulfillment
3 of the threat upon which the charge is based;

4 (3) the defendant is charged with a violation of an
5 order of protection issued under Section 112A-14 of this
6 Code or Section 214 of the Illinois Domestic Violence Act
7 of 1986, a stalking no contact order under Section 80 of
8 the Stalking No Contact Order Act, or of a civil no contact
9 order under Section 213 of the Civil No Contact Order Act,
10 and it is alleged that the defendant's pretrial release
11 poses a real and present threat to the safety of any person
12 or persons or the community, based on the specific
13 articulable facts of the case;

14 (4) the defendant is charged with domestic battery or
15 aggravated domestic battery under Section 12-3.2 or 12-3.3
16 of the Criminal Code of 2012 and it is alleged that the
17 defendant's pretrial release poses a real and present
18 threat to the safety of any person or persons or the
19 community, based on the specific articulable facts of the
20 case;

21 (5) the defendant is charged with any offense under
22 Article 11 of the Criminal Code of 2012, except for
23 Sections 11-14, 11-14.1, 11-18, 11-20, 11-30, 11-35,
24 11-40, and 11-45 of the Criminal Code of 2012, or similar
25 provisions of the Criminal Code of 1961 and it is alleged
26 that the defendant's pretrial release poses a real and

1 present threat to the safety of any person or persons or
2 the community, based on the specific articulable facts of
3 the case;

4 (6) the defendant is charged with any of the following
5 offenses under the Criminal Code of 2012, and it is
6 alleged that the defendant's pretrial release poses a real
7 and present threat to the safety of any person or persons
8 or the community, based on the specific articulable facts
9 of the case:

10 (A) Section 24-1.2 (aggravated discharge of a
11 firearm);

12 (B) Section 24-2.5 (aggravated discharge of a
13 machine gun or a firearm equipped with a device
14 designed or use for silencing the report of a
15 firearm);

16 (C) Section 24-1.5 (reckless discharge of a
17 firearm);

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

19 (E) Section 24-2.2 (manufacture, sale or transfer
20 of bullets or shells represented to be armor piercing
21 bullets, dragon's breath shotgun shells, bolo shells,
22 or flechette shells);

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

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

1 (H) Section 24-34 (unlawful sale of firearms by
2 liquor license);

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

5 (J) Section 24-3A (gunrunning);

6 (K) Section 24-3B (firearms trafficking);

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

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

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

11 (O) Non-probationable violations: (i) unlawful use
12 or possession of weapons by felons or persons in the
13 Custody of the Department of Corrections facilities
14 (Section 24-1.1), (ii) aggravated unlawful use of a
15 weapon (Section 24-1.6), or (iii) aggravated
16 possession of a stolen firearm (Section 24-3.9);

17 (P) Section 9-3 (reckless homicide and involuntary
18 manslaughter);

19 (Q) Section 19-3 (residential burglary);

20 (R) Section 10-5 (child abduction);

21 (S) Felony violations of Section 12C-5 (child
22 endangerment);

23 (T) Section 12-7.1 (hate crime);

24 (U) Section 10-3.1 (aggravated unlawful
25 restraint);

26 (V) Section 12-9 (threatening a public official);

1 (W) Subdivision (f)(1) of Section 12-3.05
2 (aggravated battery with a deadly weapon other than by
3 discharge of a firearm);

4 (6.5) the defendant is charged with any of the
5 following offenses, and it is alleged that the defendant's
6 pretrial release poses a real and present threat to the
7 safety of any person or persons or the community, based on
8 the specific articulable facts of the case:

9 (A) Felony violations of Sections 3.01, 3.02, or
10 3.03 of the Humane Care for Animals Act (cruel
11 treatment, aggravated cruelty, and animal torture);

12 (B) Subdivision (d)(1)(B) of Section 11-501 of the
13 Illinois Vehicle Code (aggravated driving under the
14 influence while operating a school bus with
15 passengers);

16 (C) Subdivision (d)(1)(C) of Section 11-501 of the
17 Illinois Vehicle Code (aggravated driving under the
18 influence causing great bodily harm);

19 (D) Subdivision (d)(1)(D) of Section 11-501 of the
20 Illinois Vehicle Code (aggravated driving under the
21 influence after a previous reckless homicide
22 conviction);

23 (E) Subdivision (d)(1)(F) of Section 11-501 of the
24 Illinois Vehicle Code (aggravated driving under the
25 influence leading to death); or

26 (F) Subdivision (d)(1)(J) of Section 11-501 of the

1 Illinois Vehicle Code (aggravated driving under the
2 influence that resulted in bodily harm to a child
3 under the age of 16);

4 (7) the defendant is charged with an attempt to commit
5 any charge listed in paragraphs (1) through (6.5), and it
6 is alleged that the defendant's pretrial release poses a
7 real and present threat to the safety of any person or
8 persons or the community, based on the specific
9 articulable facts of the case; or

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

12 (A) Any felony described in subdivisions (a)(1)
13 through (a)(7) of this Section; or

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

15 (b) If the charged offense is a felony, as part of the
16 detention hearing, the court shall determine whether there is
17 probable cause the defendant has committed an offense, unless
18 a hearing pursuant to Section 109-3 of this Code has already
19 been held or a grand jury has returned a true bill of
20 indictment against the defendant. If there is a finding of no
21 probable cause, the defendant shall be released. No such
22 finding is necessary if the defendant is charged with a
23 misdemeanor.

24 (c) Timing of petition.

25 (1) A petition may be filed without prior notice to
26 the defendant at the first appearance before a judge, or

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

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

18 (d) Contents of petition.

19 (1) The petition shall be verified by the State and
20 shall state the grounds upon which it contends the
21 defendant should be denied pretrial release, including the
22 real and present threat to the safety of any person or
23 persons or the community, based on the specific
24 articulable facts or flight risk, as appropriate.

25 (2) If the State seeks to file a second or subsequent
26 petition under this Section, the State shall be required

1 to present a verified application setting forth in detail
2 any new facts not known or obtainable at the time of the
3 filing of the previous petition.

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

7 (1) the proof is evident or the presumption great that
8 the defendant has committed an offense listed in
9 subsection (a), and

10 (2) for offenses listed in paragraphs (1) through (7)
11 of subsection (a), the defendant poses a real and present
12 threat to the safety of any person or persons or the
13 community, based on the specific articulable facts of the
14 case, by conduct which may include, but is not limited to,
15 a forcible felony, the obstruction of justice,
16 intimidation, injury, or abuse as defined by paragraph (1)
17 of Section 103 of the Illinois Domestic Violence Act of
18 1986, and

19 (3) no condition or combination of conditions set
20 forth in subsection (b) of Section 110-10 of this Article
21 can mitigate (i) the real and present threat to the safety
22 of any person or persons or the community, based on the
23 specific articulable facts of the case, for offenses
24 listed in paragraphs (1) through (7) of subsection (a), or
25 (ii) the defendant's willful flight for offenses listed in
26 paragraph (8) of subsection (a), and

1 (4) for offenses under subsection (b) of Section 407
2 of the Illinois Controlled Substances Act that are subject
3 to paragraph (1) of subsection (a), no condition or
4 combination of conditions set forth in subsection (b) of
5 Section 110-10 of this Article can mitigate the real and
6 present threat to the safety of any person or persons or
7 the community, based on the specific articulable facts of
8 the case, and the defendant poses a serious risk to not
9 appear in court as required.

10 (f) Conduct of the hearings.

11 (1) Prior to the hearing, the State shall tender to
12 the defendant copies of the defendant's criminal history
13 available, any written or recorded statements, and the
14 substance of any oral statements made by any person, if
15 relied upon by the State in its petition, and any police
16 reports in the prosecutor's possession at the time of the
17 hearing.

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

20 (3) The defendant has the right to be represented by
21 counsel, and if he or she is indigent, to have counsel
22 appointed for him or her. The defendant shall have the
23 opportunity to testify, to present witnesses on his or her
24 own behalf, and to cross-examine any witnesses that are
25 called by the State. Defense counsel shall be given
26 adequate opportunity to confer with the defendant before

1 any hearing at which conditions of release or the
2 detention of the defendant are to be considered, with an
3 accommodation for a physical condition made to facilitate
4 attorney/client consultation. If defense counsel needs to
5 confer or consult with the defendant during any hearing
6 conducted via a two-way audio-visual communication system,
7 such consultation shall not be recorded and shall be
8 undertaken consistent with constitutional protections.

9 (3.5) A hearing at which pretrial release may be
10 denied must be conducted in person (and not by way of
11 two-way audio visual communication) unless the accused
12 waives the right to be present physically in court, the
13 court determines that the physical health and safety of
14 any person necessary to the proceedings would be
15 endangered by appearing in court, or the chief judge of
16 the circuit orders use of that system due to operational
17 challenges in conducting the hearing in person. Such
18 operational challenges must be documented and approved by
19 the chief judge of the circuit, and a plan to address the
20 challenges through reasonable efforts must be presented
21 and approved by the Administrative Office of the Illinois
22 Courts every 6 months.

23 (4) If the defense seeks to compel the complaining
24 witness to testify as a witness in its favor, it shall
25 petition the court for permission. When the ends of
26 justice so require, the court may exercise its discretion

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

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 defendant may not move to suppress evidence or
10 a confession, however, evidence that proof of the charged
11 crime may have been the result of an unlawful search or
12 seizure, or both, or through improper interrogation, is
13 relevant in assessing the weight of the evidence against
14 the defendant.

15 (7) Decisions regarding release, conditions of
16 release, and detention prior to trial must be
17 individualized, and no single factor or standard may be
18 used exclusively to order detention. Risk assessment tools
19 may not be used as the sole basis to deny pretrial release.

20 (g) Factors to be considered in making a determination of
21 dangerousness. The court may, in determining whether the
22 defendant poses a real and present threat to the safety of any
23 person or persons or the community, based on the specific
24 articulable facts of the case, consider, but shall not be
25 limited to, evidence or testimony concerning:

26 (1) The nature and circumstances of any offense

1 charged, including whether the offense is a crime of
2 violence, involving a weapon, or a sex offense.

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

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

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

15 (3) The identity of any person or persons to whose
16 safety the defendant is believed to pose a threat, and the
17 nature of the threat.

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 the defendant.

22 (6) The age and physical condition of any victim or
23 complaining witness.

24 (7) Whether the defendant is known to possess or have
25 access to any weapon or weapons.

26 (8) Whether, at the time of the current offense or any

1 other offense or arrest, the defendant was on probation,
2 parole, aftercare release, mandatory supervised release or
3 other release from custody pending trial, sentencing,
4 appeal or completion of sentence for an offense under
5 federal or state law.

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

11 (h) Detention order. The court shall, in any order for
12 detention:

13 (1) make a written finding summarizing the court's
14 reasons for concluding that the defendant should be denied
15 pretrial release, including why less restrictive
16 conditions would not avoid a real and present threat to
17 the safety of any person or persons or the community,
18 based on the specific articulable facts of the case, or
19 prevent the defendant's willful flight from prosecution;

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

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

1 (4) direct that the sheriff deliver the defendant as
2 required for appearances in connection with court
3 proceedings.

4 (i) Detention. If the court enters an order for the
5 detention of the defendant pursuant to subsection (e) of this
6 Section, the defendant shall be brought to trial on the
7 offense for which he is detained within 90 days after the date
8 on which the order for detention was entered. If the defendant
9 is not brought to trial within the 90-day period required by
10 the preceding sentence, he shall not be denied pretrial
11 release. In computing the 90-day period, the court shall omit
12 any period of delay resulting from a continuance granted at
13 the request of the defendant and any period of delay resulting
14 from a continuance granted at the request of the State with
15 good cause shown pursuant to Section 103-5.

16 (i-5) At each subsequent appearance of the defendant
17 before the court, the judge must find that continued detention
18 is necessary to avoid a real and present threat to the safety
19 of any person or persons or the community, based on the
20 specific articulable facts of the case, or to prevent the
21 defendant's willful flight from prosecution.

22 (j) Rights of the defendant. The defendant shall be
23 entitled to appeal any order entered under this Section
24 denying his or her pretrial release.

25 (k) Appeal. The State may appeal any order entered under
26 this Section denying any motion for denial of pretrial

1 release.

2 (1) Presumption of innocence. Nothing in this Section
3 shall be construed as modifying or limiting in any way the
4 defendant's presumption of innocence in further criminal
5 proceedings.

6 (m) Interest of victims.

7 (1) Crime victims shall be given notice by the State's
8 Attorney's office of this hearing as required in paragraph (1)
9 of subsection (b) of Section 4.5 of the Rights of Crime Victims
10 and Witnesses Act and shall be informed of their opportunity
11 at this hearing to obtain a protective order.

12 (2) If the defendant is denied pretrial release, the court
13 may impose a no contact provision with the victim or other
14 interested party that shall be enforced while the defendant
15 remains in custody.

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