

HB0892



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB0892

Introduced 2/2/2005, by Rep. John J. Millner

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-10

from Ch. 38, par. 110-10

Amends the Code of Criminal Procedure of 1963. Deletes a provision allowing legally possessed firearms to be returned to a person that completes a sentence for a conviction on a misdemeanor domestic battery charge.

LRB094 07420 RXD 37582 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 110-10 as follows:

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

7 Sec. 110-10. Conditions of bail bond.

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

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

15 (2) Submit himself or herself to the orders and process
16 of the court;

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

18 (4) Not violate any criminal statute of any
19 jurisdiction;

20 (5) At a time and place designated by the court,
21 surrender all firearms in his or her possession to a law
22 enforcement officer designated by the court to take custody
23 of and impound the firearms and physically surrender his or
24 her Firearm Owner's Identification Card to the clerk of the
25 circuit court when the offense the person has been charged
26 with is a forcible felony, stalking, aggravated stalking,
27 domestic battery, any violation of either the Illinois
28 Controlled Substances Act or the Cannabis Control Act that
29 is classified as a Class 2 or greater felony, or any felony
30 violation of Article 24 of the Criminal Code of 1961; the
31 court may, however, forgo the imposition of this condition
32 when the circumstances of the case clearly do not warrant

1 it or when its imposition would be impractical; all legally
2 possessed firearms shall be returned to the person ~~upon~~
3 ~~that person completing a sentence for a conviction on a~~
4 ~~misdemeanor domestic battery,~~ upon the charges being
5 dismissed, or if the person is found not guilty, unless the
6 finding of not guilty is by reason of insanity; and

7 (6) At a time and place designated by the court, submit
8 to a psychological evaluation when the person has been
9 charged with a violation of item (4) of subsection (a) of
10 Section 24-1 of the Criminal Code of 1961 and that
11 violation occurred in a school or in any conveyance owned,
12 leased, or contracted by a school to transport students to
13 or from school or a school-related activity, or on any
14 public way within 1,000 feet of real property comprising
15 any school.

16 Psychological evaluations ordered pursuant to this Section
17 shall be completed promptly and made available to the State,
18 the defendant, and the court. As a further condition of bail
19 under these circumstances, the court shall order the defendant
20 to refrain from entering upon the property of the school,
21 including any conveyance owned, leased, or contracted by a
22 school to transport students to or from school or a
23 school-related activity, or on any public way within 1,000 feet
24 of real property comprising any school. Upon receipt of the
25 psychological evaluation, either the State or the defendant may
26 request a change in the conditions of bail, pursuant to Section
27 110-6 of this Code. The court may change the conditions of bail
28 to include a requirement that the defendant follow the
29 recommendations of the psychological evaluation, including
30 undergoing psychiatric treatment. The conclusions of the
31 psychological evaluation and any statements elicited from the
32 defendant during its administration are not admissible as
33 evidence of guilt during the course of any trial on the charged
34 offense, unless the defendant places his or her mental
35 competency in issue.

36 (b) The court may impose other conditions, such as the

1 following, if the court finds that such conditions are
2 reasonably necessary to assure the defendant's appearance in
3 court, protect the public from the defendant, or prevent the
4 defendant's unlawful interference with the orderly
5 administration of justice:

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

8 (2) Refrain from possessing a firearm or other
9 dangerous weapon;

10 (3) Refrain from approaching or communicating with
11 particular persons or classes of persons;

12 (4) Refrain from going to certain described
13 geographical areas or premises;

14 (5) Refrain from engaging in certain activities or
15 indulging in intoxicating liquors or in certain drugs;

16 (6) Undergo treatment for drug addiction or
17 alcoholism;

18 (7) Undergo medical or psychiatric treatment;

19 (8) Work or pursue a course of study or vocational
20 training;

21 (9) Attend or reside in a facility designated by the
22 court;

23 (10) Support his or her dependents;

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

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

29 (13) Remain in the custody of such designated person or
30 organization agreeing to supervise his release. Such third
31 party custodian shall be responsible for notifying the
32 court if the defendant fails to observe the conditions of
33 release which the custodian has agreed to monitor, and
34 shall be subject to contempt of court for failure so to
35 notify the court;

36 (14) Be placed under direct supervision of the Pretrial

1 Services Agency, Probation Department or Court Services
2 Department in a pretrial bond home supervision capacity
3 with or without the use of an approved electronic
4 monitoring device subject to Article 8A of Chapter V of the
5 Unified Code of Corrections;

6 (14.1) The court shall impose upon a defendant who is
7 charged with any alcohol, cannabis or controlled substance
8 violation and is placed under direct supervision of the
9 Pretrial Services Agency, Probation Department or Court
10 Services Department in a pretrial bond home supervision
11 capacity with the use of an approved monitoring device, as
12 a condition of such bail bond, a fee that represents costs
13 incidental to the electronic monitoring for each day of
14 such bail supervision ordered by the court, unless after
15 determining the inability of the defendant to pay the fee,
16 the court assesses a lesser fee or no fee as the case may
17 be. The fee shall be collected by the clerk of the circuit
18 court. The clerk of the circuit court shall pay all monies
19 collected from this fee to the county treasurer for deposit
20 in the substance abuse services fund under Section 5-1086.1
21 of the Counties Code;

22 (14.2) The court shall impose upon all defendants,
23 including those defendants subject to paragraph (14.1)
24 above, placed under direct supervision of the Pretrial
25 Services Agency, Probation Department or Court Services
26 Department in a pretrial bond home supervision capacity
27 with the use of an approved monitoring device, as a
28 condition of such bail bond, a fee which shall represent
29 costs incidental to such electronic monitoring for each day
30 of such bail supervision ordered by the court, unless after
31 determining the inability of the defendant to pay the fee,
32 the court assesses a lesser fee or no fee as the case may
33 be. The fee shall be collected by the clerk of the circuit
34 court. The clerk of the circuit court shall pay all monies
35 collected from this fee to the county treasurer who shall
36 use the monies collected to defray the costs of

1 corrections. The county treasurer shall deposit the fee
2 collected in the county working cash fund under Section
3 6-27001 or Section 6-29002 of the Counties Code, as the
4 case may be;

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

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

28 (15) Comply with the terms and conditions of an order
29 of protection issued by the court under the Illinois
30 Domestic Violence Act of 1986 or an order of protection
31 issued by the court of another state, tribe, or United
32 States territory;

33 (16) Under Section 110-6.5 comply with the conditions
34 of the drug testing program; and

35 (17) Such other reasonable conditions as the court may
36 impose.

1 (c) When a person is charged with an offense under Section
2 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of
3 1961", involving a victim who is a minor under 18 years of age
4 living in the same household with the defendant at the time of
5 the offense, in granting bail or releasing the defendant on his
6 own recognizance, the judge shall impose conditions to restrict
7 the defendant's access to the victim which may include, but are
8 not limited to conditions that he will:

9 1. Vacate the Household.

10 2. Make payment of temporary support to his dependents.

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

13 (d) When a person is charged with a criminal offense and
14 the victim is a family or household member as defined in
15 Article 112A, conditions shall be imposed at the time of the
16 defendant's release on bond that restrict the defendant's
17 access to the victim. Unless provided otherwise by the court,
18 the restrictions shall include requirements that the defendant
19 do the following:

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

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

26 (e) Local law enforcement agencies shall develop
27 standardized bond forms for use in cases involving family or
28 household members as defined in Article 112A, including
29 specific conditions of bond as provided in subsection (d).
30 Failure of any law enforcement department to develop or use
31 those forms shall in no way limit the applicability and
32 enforcement of subsections (d) and (f).

33 (f) If the defendant is admitted to bail after conviction
34 the conditions of the bail bond shall be that he will, in
35 addition to the conditions set forth in subsections (a) and (b)
36 hereof:

- 1 (1) Duly prosecute his appeal;
- 2 (2) Appear at such time and place as the court may
3 direct;
- 4 (3) Not depart this State without leave of the court;
- 5 (4) Comply with such other reasonable conditions as the
6 court may impose; and
- 7 (5) If the judgment is affirmed or the cause reversed
8 and remanded for a new trial, forthwith surrender to the
9 officer from whose custody he was bailed.
- 10 (g) Upon a finding of guilty for any felony offense, the
11 defendant shall physically surrender, at a time and place
12 designated by the court, any and all firearms in his or her
13 possession and his or her Firearm Owner's Identification Card
14 as a condition of remaining on bond pending sentencing.
- 15 (Source: P.A. 92-329, eff. 8-9-01; 92-442, eff. 8-17-01;
16 92-651, eff. 7-11-02; 93-184, eff. 1-1-04.)