



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4649

Introduced 1/12/2006, by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-5.1 new

Amends the Code of Criminal Procedure of 1963. Requires a person charged with committing a violent crime against a family or household member to appear before the court for the setting of bail if specified conditions are met. Requires a court to consider enumerated factors in setting bail for a person who is charged with committing a violent crime against a family or household member and who is required to appear before the court for the setting of bail. Provides that a court may permit a person who is charged with committing a violent crime against a family or household member and who is required to appear before the court for the setting of bail to appear by video conferencing equipment. Authorizes the court to waive the appearance for the setting of bail of a person who is charged with committing a misdemeanor offense of violence against a family or household member and to set bail in accordance with specified criteria.

LRB094 18158 RLC 53466 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 adding Section 110-5.1 as follows:

6 (725 ILCS 5/110-5.1 new)

7 Sec. 110-5.1. Bail; certain persons charged with violent
8 crimes against family or household members.

9 (a) Subject to subsection (c), a person who is charged with
10 a violent crime shall appear before the court for the setting
11 of bail if the alleged victim was a family or household member
12 at the time of the alleged offense, and if the any of the
13 following applies:

14 (1) the person charged, at the time of the alleged
15 offense, was subject to the terms of an order of protection
16 issued under Section 112A-14 of this Code or Section 214 of
17 the Illinois Domestic Violence Act of 1986 or previously
18 was convicted of a violation of an order of protection
19 under Section 12-30 of the Criminal Code of 1961 or a
20 violent crime if the victim was a family or household
21 member at the time of the offense or a violation of a
22 substantially similar municipal ordinance or law of this or
23 any other state or the United States if the victim was a
24 family or household member at the time of the offense;

25 (2) the arresting officer indicates in a police report
26 or other document accompanying the complaint any of the
27 following:

28 (A) that the arresting officer observed on the
29 alleged victim objective manifestations of physical
30 harm that the arresting officer reasonably believes
31 are a result of the alleged offense;

32 (B) that the arresting officer reasonably believes

1 that the person had on the person's person at the time
2 of the alleged offense a deadly weapon;

3 (C) that the arresting officer reasonably believes
4 that the person presents a credible threat of serious
5 physical harm to the alleged victim or to any other
6 person if released on bail before trial.

7 (b) To the extent that information about any of the
8 following is available to the court, the court shall consider
9 all of the following, in addition to any other circumstances
10 considered by the court, before setting bail for a person who
11 appears before the court pursuant to subsection (a):

12 (1) whether the person has a history of domestic
13 violence or a history of other violent acts;

14 (2) the mental health of the person;

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

17 (4) whether the person is potentially a threat to any
18 other person;

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

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

23 (7) the severity of the alleged violence that is the
24 basis of the alleged offense, including, but not limited
25 to, the duration of the alleged violent incident, and
26 whether the alleged violent incident involved serious
27 physical injury, sexual assault, strangulation, abuse
28 during the alleged victim's pregnancy, abuse of pets, or
29 forcible entry to gain access to the alleged victim;

30 (8) whether a separation of the person from the alleged
31 victim or a termination of the relationship between the
32 person and the alleged victim has recently occurred or is
33 pending;

34 (9) whether the person has exhibited obsessive or
35 controlling behaviors toward the alleged victim,
36 including, but not limited to, stalking, surveillance, or

1 isolation of the alleged victim;

2 (10) whether the person has expressed suicidal or
3 homicidal ideations;

4 (11) any information contained in the complaint and any
5 police reports, affidavits, or other documents
6 accompanying the complaint.

7 (c) Upon the court's own motion or the motion of a party
8 and upon any terms that the court may direct, a court may
9 permit a person who is required to appear before it by
10 subsection (a) to appear by video conferencing equipment. If,
11 in the opinion of the court, the appearance in person or by
12 video conferencing equipment of a person who is charged with a
13 misdemeanor and who is required to appear before the court by
14 subsection (a) is not practicable, the court may waive the
15 appearance and release the person on bail on one or both of the
16 following types of bail in an amount set by the court:

17 (1) a bail bond secured by a deposit of 10% of the
18 amount of the bond in cash;

19 (2) a surety bond, a bond secured by real estate or
20 securities as allowed by law, or the deposit of cash, at
21 the option of the person.

22 Subsection (a) does not create a right in a person to
23 appear before the court for the setting of bail or prohibit a
24 court from requiring any person charged with a violent crime
25 who is not described in subsection (a) from appearing before
26 the court for the setting of bail.

27 (d) As used in this Section:

28 (1) "Violent crime" has the meaning ascribed to it in
29 Section 3 of the Rights of Crime Victims and Witnesses Act.

30 (2) "Family or household member" has the meaning
31 ascribed to it in Section 112A-3 of this Code.