



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB2024

Introduced 2/26/2007, by Rep. Kevin A. McCarthy

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-6

from Ch. 38, par. 110-6

Amends the Code of Criminal Procedure of 1963. Provides that the court may not grant bail for an offense committed while the defendant is on bail for first degree murder or attempted first degree murder and shall revoke bail previously granted to the defendant if the defendant has been released on bail for the offense of first degree murder or attempted first degree murder and has failed to appear to answer the charge or charges for first degree murder or attempted first degree murder in the court having jurisdiction on a day certain and thereafter as ordered by the court until discharged or final order of the court.

LRB095 09128 RLC 29321 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 110-6 as follows:

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

7 Sec. 110-6. (a) Upon verified application by the State or
8 the defendant or on its own motion the court before which the
9 proceeding is pending may increase or reduce the amount of bail
10 or may alter the conditions of the bail bond or grant bail
11 where it has been previously revoked or denied. If bail has
12 been previously revoked pursuant to subsection (f) of this
13 Section or if bail has been denied to the defendant pursuant to
14 subsection (e) of Section 110-6.1 or subsection (e) of Section
15 110-6.3, the defendant shall be required to present a verified
16 application setting forth in detail any new facts not known or
17 obtainable at the time of the previous revocation or denial of
18 bail proceedings. If the court grants bail where it has been
19 previously revoked or denied, the court shall state on the
20 record of the proceedings the findings of facts and conclusion
21 of law upon which such order is based.

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

1 shall constitute grounds for the court to increase the amount
2 of bail, or otherwise alter the conditions of bail, or, where
3 the alleged offense committed on bail is a forcible felony in
4 Illinois or a Class 2 or greater offense under the Illinois
5 Controlled Substances Act, the Cannabis Control Act, or the
6 Methamphetamine Control and Community Protection Act, revoke
7 bail pursuant to the appropriate provisions of subsection (e)
8 of this Section.

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

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

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

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

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

1 as defined in Section 112A-3 of this Code and the violation is
2 an offense of domestic battery against the same victim the
3 court shall, on the motion of the State or its own motion,
4 revoke bail in accordance with the following provisions:

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

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

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

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

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

12 (4) If the bail of any defendant is revoked pursuant to
13 paragraph (f) (3) of this Section, the defendant may demand
14 and shall be entitled to be brought to trial on the offense
15 with respect to which he was formerly released on bail
16 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 heretofore set on such warrant unless the court
7 sets forth on the record of proceedings the conclusions of
8 law and facts which are the basis for such altering of
9 another court's bond. The non-issuing court shall not alter
10 another courts bail set on a warrant unless the interests
11 of justice and public safety are served by such action.

12 (f-5) The court may not grant bail for an offense committed
13 while the defendant is on bail for first degree murder or
14 attempted first degree murder and shall revoke bail previously
15 granted to the defendant if the defendant has been released on
16 bail for the offense of first degree murder or attempted first
17 degree murder and has failed to appear to answer the charge or
18 charges for first degree murder or attempted first degree
19 murder in the court having jurisdiction on a day certain and
20 thereafter as ordered by the court until discharged or final
21 order of the court.

22 (g) The State may appeal any order where the court has
23 increased or reduced the amount of bail or altered the
24 conditions of the bail bond or granted bail where it has
25 previously been revoked.

26 (Source: P.A. 93-417, eff. 8-5-03; 94-556, eff. 9-11-05.)