



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB6011

by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

725 ILCS 5/109-1.2 new
725 ILCS 5/110-5
725 ILCS 5/110A-30

from Ch. 38, par. 110-5

Amends the Code of Criminal Procedure of 1963. Provides that a judge shall ask a person arrested who is under 21, who is brought before the court whether he or she has been previously adjudged a ward of the court under the Abused, Neglected or Dependent Minors Article of the Juvenile Court Act of 1987, and has been committed to the care of the Department of Children and Family Services. If the judge has reasonable cause to believe that the person has been committed to the care of the Department of Children and Family Services, the judge shall instruct the clerk of court to contact the Department of Children and Family Services to notify of the person's arrest and location. Provides that for any person for whom bond is to be set, who has been previously adjudged a ward of the court under that Article of the Juvenile Court Act of 1987, and has been committed to the care of the Department of Children and Family Services, be placed on recognizance without a sum of money attached to his or her release, and physical custody of the ward shall be given the Department of Children and Family Services within 24 hours.

LRB099 19164 SLF 43553 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 Sections 110-5 and 110A-30 and by adding
6 Section 109-1.2 as follows:

7 (725 ILCS 5/109-1.2 new)

8 Sec. 109-1.2. Notification when a minor is a ward of the
9 court.

10 (a) Whenever a person under 21 years of age is arrested
11 either with or without a warrant, and is taken before a judge
12 as provided for in paragraph (6) of subsection (d) of Section
13 107-9 and subsection (a) of Section 109-1, the judge shall ask
14 the arrestee whether he or she has been previously adjudged a
15 ward of the court under Article II of the Juvenile Court Act of
16 1987, and has been committed to the care of the Department of
17 Children and Family Services. If the judge has reasonable cause
18 to believe that a defendant may have been adjudged a ward of
19 the court under Article II of the Juvenile Court Act of 1987,
20 and has been committed to the care of the Department of
21 Children and Family Services, the judge shall instruct the
22 clerk of court to contact the Department of Children and Family
23 Services and notify the Department of the person's arrest and

1 location where the individual is being detained.

2 (725 ILCS 5/110-5) (from Ch. 38, par. 110-5)

3 Sec. 110-5. Determining the amount of bail and conditions
4 of release.

5 (a) In determining the amount of monetary bail or
6 conditions of release, if any, which will reasonably assure the
7 appearance of a defendant as required or the safety of any
8 other person or the community and the likelihood of compliance
9 by the defendant with all the conditions of bail, the court
10 shall, on the basis of available information, take into account
11 such matters as the nature and circumstances of the offense
12 charged, whether the evidence shows that as part of the offense
13 there was a use of violence or threatened use of violence,
14 whether the offense involved corruption of public officials or
15 employees, whether there was physical harm or threats of
16 physical harm to any public official, public employee, judge,
17 prosecutor, juror or witness, senior citizen, child, or person
18 with a disability, whether evidence shows that during the
19 offense or during the arrest the defendant possessed or used a
20 firearm, machine gun, explosive or metal piercing ammunition or
21 explosive bomb device or any military or paramilitary armament,
22 whether the evidence shows that the offense committed was
23 related to or in furtherance of the criminal activities of an
24 organized gang or was motivated by the defendant's membership
25 in or allegiance to an organized gang, the condition of the

1 victim, any written statement submitted by the victim or
2 proffer or representation by the State regarding the impact
3 which the alleged criminal conduct has had on the victim and
4 the victim's concern, if any, with further contact with the
5 defendant if released on bail, whether the offense was based on
6 racial, religious, sexual orientation or ethnic hatred, the
7 likelihood of the filing of a greater charge, the likelihood of
8 conviction, the sentence applicable upon conviction, the
9 weight of the evidence against such defendant, whether there
10 exists motivation or ability to flee, whether there is any
11 verification as to prior residence, education, or family ties
12 in the local jurisdiction, in another county, state or foreign
13 country, the defendant's employment, financial resources,
14 character and mental condition, past conduct, prior use of
15 alias names or dates of birth, and length of residence in the
16 community, the consent of the defendant to periodic drug
17 testing in accordance with Section 110-6.5, whether a foreign
18 national defendant is lawfully admitted in the United States of
19 America, whether the government of the foreign national
20 maintains an extradition treaty with the United States by which
21 the foreign government will extradite to the United States its
22 national for a trial for a crime allegedly committed in the
23 United States, whether the defendant is currently subject to
24 deportation or exclusion under the immigration laws of the
25 United States, whether the defendant, although a United States
26 citizen, is considered under the law of any foreign state a

1 national of that state for the purposes of extradition or
2 non-extradition to the United States, the amount of unrecovered
3 proceeds lost as a result of the alleged offense, the source of
4 bail funds tendered or sought to be tendered for bail, whether
5 from the totality of the court's consideration, the loss of
6 funds posted or sought to be posted for bail will not deter the
7 defendant from flight, whether the evidence shows that the
8 defendant is engaged in significant possession, manufacture,
9 or delivery of a controlled substance or cannabis, either
10 individually or in consort with others, whether at the time of
11 the offense charged he or she was on bond or pre-trial release
12 pending trial, probation, periodic imprisonment or conditional
13 discharge pursuant to this Code or the comparable Code of any
14 other state or federal jurisdiction, whether the defendant is
15 on bond or pre-trial release pending the imposition or
16 execution of sentence or appeal of sentence for any offense
17 under the laws of Illinois or any other state or federal
18 jurisdiction, whether the defendant is under parole, aftercare
19 release, mandatory supervised release, or work release from the
20 Illinois Department of Corrections or Illinois Department of
21 Juvenile Justice or any penal institution or corrections
22 department of any state or federal jurisdiction, the
23 defendant's record of convictions, whether the defendant has
24 been convicted of a misdemeanor or ordinance offense in
25 Illinois or similar offense in other state or federal
26 jurisdiction within the 10 years preceding the current charge

1 or convicted of a felony in Illinois, whether the defendant was
2 convicted of an offense in another state or federal
3 jurisdiction that would be a felony if committed in Illinois
4 within the 20 years preceding the current charge or has been
5 convicted of such felony and released from the penitentiary
6 within 20 years preceding the current charge if a penitentiary
7 sentence was imposed in Illinois or other state or federal
8 jurisdiction, the defendant's records of juvenile adjudication
9 of delinquency in any jurisdiction, any record of appearance or
10 failure to appear by the defendant at court proceedings,
11 whether there was flight to avoid arrest or prosecution,
12 whether the defendant escaped or attempted to escape to avoid
13 arrest, whether the defendant refused to identify himself or
14 herself, or whether there was a refusal by the defendant to be
15 fingerprinted as required by law. Information used by the court
16 in its findings or stated in or offered in connection with this
17 Section may be by way of proffer based upon reliable
18 information offered by the State or defendant. All evidence
19 shall be admissible if it is relevant and reliable regardless
20 of whether it would be admissible under the rules of evidence
21 applicable at criminal trials. If the State presents evidence
22 that the offense committed by the defendant was related to or
23 in furtherance of the criminal activities of an organized gang
24 or was motivated by the defendant's membership in or allegiance
25 to an organized gang, and if the court determines that the
26 evidence may be substantiated, the court shall prohibit the

1 defendant from associating with other members of the organized
2 gang as a condition of bail or release. For the purposes of
3 this Section, "organized gang" has the meaning ascribed to it
4 in Section 10 of the Illinois Streetgang Terrorism Omnibus
5 Prevention Act.

6 (b) The amount of bail shall be:

7 (1) Sufficient to assure compliance with the
8 conditions set forth in the bail bond, which shall include
9 the defendant's current address with a written
10 admonishment to the defendant that he or she must comply
11 with the provisions of Section 110-12 regarding any change
12 in his or her address. The defendant's address shall at all
13 times remain a matter of public record with the clerk of
14 the court.

15 (2) Not oppressive.

16 (3) Considerate of the financial ability of the
17 accused.

18 (4) When a person is charged with a drug related
19 offense involving possession or delivery of cannabis or
20 possession or delivery of a controlled substance as defined
21 in the Cannabis Control Act, the Illinois Controlled
22 Substances Act, or the Methamphetamine Control and
23 Community Protection Act, the full street value of the
24 drugs seized shall be considered. "Street value" shall be
25 determined by the court on the basis of a proffer by the
26 State based upon reliable information of a law enforcement

1 official contained in a written report as to the amount
2 seized and such proffer may be used by the court as to the
3 current street value of the smallest unit of the drug
4 seized.

5 (b-5) Upon the filing of a written request demonstrating
6 reasonable cause, the State's Attorney may request a source of
7 bail hearing either before or after the posting of any funds.
8 If the hearing is granted, before the posting of any bail, the
9 accused must file a written notice requesting that the court
10 conduct a source of bail hearing. The notice must be
11 accompanied by justifying affidavits stating the legitimate
12 and lawful source of funds for bail. At the hearing, the court
13 shall inquire into any matters stated in any justifying
14 affidavits, and may also inquire into matters appropriate to
15 the determination which shall include, but are not limited to,
16 the following:

17 (1) the background, character, reputation, and
18 relationship to the accused of any surety; and

19 (2) the source of any money or property deposited by
20 any surety, and whether any such money or property
21 constitutes the fruits of criminal or unlawful conduct; and

22 (3) the source of any money posted as cash bail, and
23 whether any such money constitutes the fruits of criminal
24 or unlawful conduct; and

25 (4) the background, character, reputation, and
26 relationship to the accused of the person posting cash

1 bail.

2 Upon setting the hearing, the court shall examine, under
3 oath, any persons who may possess material information.

4 The State's Attorney has a right to attend the hearing, to
5 call witnesses and to examine any witness in the proceeding.
6 The court shall, upon request of the State's Attorney, continue
7 the proceedings for a reasonable period to allow the State's
8 Attorney to investigate the matter raised in any testimony or
9 affidavit. If the hearing is granted after the accused has
10 posted bail, the court shall conduct a hearing consistent with
11 this subsection (b-5). At the conclusion of the hearing, the
12 court must issue an order either approving or disapproving the
13 bail.

14 (c) When a person is charged with an offense punishable by
15 fine only the amount of the bail shall not exceed double the
16 amount of the maximum penalty.

17 (d) When a person has been convicted of an offense and only
18 a fine has been imposed the amount of the bail shall not exceed
19 double the amount of the fine.

20 (e) The State may appeal any order granting bail or setting
21 a given amount for bail.

22 (f) When a person is charged with a violation of an order
23 of protection under Section 12-3.4 or 12-30 of the Criminal
24 Code of 1961 or the Criminal Code of 2012 or when a person is
25 charged with domestic battery, aggravated domestic battery,
26 kidnapping, aggravated kidnaping, unlawful restraint,

1 aggravated unlawful restraint, stalking, aggravated stalking,
2 cyberstalking, harassment by telephone, harassment through
3 electronic communications, or an attempt to commit first degree
4 murder committed against an intimate partner regardless
5 whether an order of protection has been issued against the
6 person,

7 (1) whether the alleged incident involved harassment
8 or abuse, as defined in the Illinois Domestic Violence Act
9 of 1986;

10 (2) whether the person has a history of domestic
11 violence, as defined in the Illinois Domestic Violence Act,
12 or a history of other criminal acts;

13 (3) based on the mental health of the person;

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

16 (5) whether the person has been, or is, potentially a
17 threat to any other person;

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

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

22 (8) based on the severity of the alleged incident that
23 is the basis of the alleged offense, including, but not
24 limited to, the duration of the current incident, and
25 whether the alleged incident involved the use of a weapon,
26 physical injury, sexual assault, strangulation, abuse

1 during the alleged victim's pregnancy, abuse of pets, or
2 forcible entry to gain access to the alleged victim;

3 (9) whether a separation of the person from the alleged
4 victim or a termination of the relationship between the
5 person and the alleged victim has recently occurred or is
6 pending;

7 (10) whether the person has exhibited obsessive or
8 controlling behaviors toward the alleged victim,
9 including, but not limited to, stalking, surveillance, or
10 isolation of the alleged victim or victim's family member
11 or members;

12 (11) whether the person has expressed suicidal or
13 homicidal ideations;

14 (12) based on any information contained in the
15 complaint and any police reports, affidavits, or other
16 documents accompanying the complaint,

17 the court may, in its discretion, order the respondent to
18 undergo a risk assessment evaluation using a recognized,
19 evidence-based instrument conducted by an Illinois Department
20 of Human Services approved partner abuse intervention program
21 provider, pretrial service, probation, or parole agency. These
22 agencies shall have access to summaries of the defendant's
23 criminal history, which shall not include victim interviews or
24 information, for the risk evaluation. Based on the information
25 collected from the 12 points to be considered at a bail hearing
26 under this subsection (f), the results of any risk evaluation

1 conducted and the other circumstances of the violation, the
2 court may order that the person, as a condition of bail, be
3 placed under electronic surveillance as provided in Section
4 5-8A-7 of the Unified Code of Corrections. Upon making a
5 determination whether or not to order the respondent to undergo
6 a risk assessment evaluation or to be placed under electronic
7 surveillance and risk assessment, the court shall document in
8 the record the court's reasons for making those determinations.
9 The cost of the electronic surveillance and risk assessment
10 shall be paid by, or on behalf, of the defendant. As used in
11 this subsection (f), "intimate partner" means a spouse or a
12 current or former partner in a cohabitation or dating
13 relationship.

14 (g) Any person for whom bond is to be set, unless the court
15 has denied bail under the provisions of this Article 110, who
16 has been previously adjudged a ward of the court under Article
17 II of the Juvenile Court Act of 1987 and has been committed to
18 the care of the Department of Children and Family Services,
19 shall be placed on recognizance without a sum of money attached
20 to his or her release and ordered released to the care and
21 custody of the Department of Children and Family Services. Upon
22 entry of this order, the court shall order that the Department
23 of Children and Family Services take physical custody of the
24 ward within 24 hours of the entry of the order. The court shall
25 instruct the clerk of court to transmit a copy of the order to
26 the Department of Children and Family Services.

1 (Source: P.A. 98-558, eff. 1-1-14; 98-1012, eff. 1-1-15;
2 99-143, eff. 7-27-15.)

3 (725 ILCS 5/110A-30)

4 Sec. 110A-30. Recognizance. Except as provided in
5 subsection (g) of Section 110-5, if ~~if~~ there is just reason to
6 fear the commission of an offense, the defendant shall be
7 required to give a recognizance, with sufficient security, in
8 the sum as the court may direct, to keep the peace towards all
9 people of this State, and especially towards the person against
10 whom or whose property there is reason to fear the offense may
11 be committed, for such time, not exceeding 12 months, as the
12 court may order. But he or she shall not be bound over to the
13 next court unless he or she is also charged with some other
14 offense for which he or she ought to be held to answer at the
15 court.

16 (Source: P.A. 89-234, eff. 1-1-96.)