



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0314

by Rep. Arthur Turner

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-6

from Ch. 38, par. 110-6

Amends the Code of Criminal Procedure of 1963. Provides that upon verified application by the Sheriff in whose custody the defendant has been remanded (in addition to current application by the State, the defendant, or the court on its own motion) the court before which the proceeding is pending may increase or reduce the amount of bail or may alter the conditions of the bail bond or grant bail where it has been previously revoked or denied. Provides that if monetary bail has been set and the defendant has been unable to post the required amount to secure release from custody, the defendant shall be required to present a verified application setting forth in detail any new facts not known or obtainable at the time of the setting of bail, or the previous revocation or denial of bail proceedings. Provides that if the court grants bail where it has previously been revoked or denied, or increases or reduces the amount of bail, the court shall state on the record of the proceedings the findings of facts and conclusion of law upon which such order is based.

LRB100 04755 SLF 14762 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, the Sheriff in whose custody the defendant has
9 been remanded, or on its own motion the court before which the
10 proceeding is pending may increase or reduce the amount of bail
11 or may alter the conditions of the bail bond or grant bail
12 where it has been previously revoked or denied. If bail has
13 been previously revoked under ~~pursuant to~~ subsection (f) of
14 this Section or if bail has been denied to the defendant under
15 ~~pursuant to~~ subsection (e) of Section 110-6.1 or subsection (e)
16 of Section 110-6.3, or if a monetary bail bond has been set
17 under Section 110-5 and the defendant has been unable to post
18 the required amount to secure release from custody, the
19 defendant shall be required to present a verified application
20 setting forth in detail any new facts not known or obtainable
21 at the time of the setting of bail, or the previous revocation
22 or denial of bail proceedings. If the court grants bail where
23 it has been previously revoked or denied, or increases or

1 reduces the amount of bail, the court shall state on the record
2 of the proceedings the findings of facts and conclusion of law
3 upon which such order is based.

4 (b) Violation of the conditions of Section 110-10 of this
5 Code or any special conditions of bail as ordered by the court
6 shall constitute grounds for the court to increase the amount
7 of bail, or otherwise alter the conditions of bail, or, where
8 the alleged offense committed on bail is a forcible felony in
9 Illinois or a Class 2 or greater offense under the Illinois
10 Controlled Substances Act, the Cannabis Control Act, or the
11 Methamphetamine Control and Community Protection Act, revoke
12 bail pursuant to the appropriate provisions of subsection (e)
13 of this Section.

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

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

19 (e) Upon verified application by the State stating facts or
20 circumstances constituting a violation or a threatened
21 violation of any of the conditions of the bail bond the court
22 may issue a warrant commanding any peace officer to bring the
23 defendant without unnecessary delay before the court for a
24 hearing on the matters set forth in the application. If the
25 actual court before which the proceeding is pending is absent
26 or otherwise unavailable another court may issue a warrant

1 pursuant to this Section. When the defendant is charged with a
2 felony offense and while free on bail is charged with a
3 subsequent felony offense and is the subject of a proceeding
4 set forth in Section 109-1 or 109-3 of this Code, upon the
5 filing of a verified petition by the State alleging a violation
6 of Section 110-10 (a) (4) of this Code, the court shall without
7 prior notice to the defendant, grant leave to file such
8 application and shall order the transfer of the defendant and
9 the application without unnecessary delay to the court before
10 which the previous felony matter is pending for a hearing as
11 provided in subsection (b) or this subsection of this Section.
12 The defendant shall be held without bond pending transfer to
13 and a hearing before such court. At the conclusion of the
14 hearing based on a violation of the conditions of Section
15 110-10 of this Code or any special conditions of bail as
16 ordered by the court the court may enter an order increasing
17 the amount of bail or alter the conditions of bail as deemed
18 appropriate.

19 (f) Where the alleged violation consists of the violation
20 of one or more felony statutes of any jurisdiction which would
21 be a forcible felony in Illinois or a Class 2 or greater
22 offense under the Illinois Controlled Substances Act, the
23 Cannabis Control Act, or the Methamphetamine Control and
24 Community Protection Act and the defendant is on bail for the
25 alleged commission of a felony, or where the defendant is on
26 bail for a felony domestic battery (enhanced pursuant to

1 subsection (b) of Section 12-3.2 of the Criminal Code of 1961
2 or the Criminal Code of 2012), aggravated domestic battery,
3 aggravated battery, unlawful restraint, aggravated unlawful
4 restraint or domestic battery in violation of item (1) of
5 subsection (a) of Section 12-3.2 of the Criminal Code of 1961
6 or the Criminal Code of 2012 against a family or household
7 member as defined in Section 112A-3 of this Code and the
8 violation is an offense of domestic battery against the same
9 victim the court shall, on the motion of the State or its own
10 motion, revoke bail in accordance with the following
11 provisions:

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

1 (2) At a hearing on the alleged violation the State has
2 the burden of going forward and proving the violation by
3 clear and convincing evidence. The evidence shall be
4 presented in open court with the opportunity to testify, to
5 present witnesses in his behalf, and to cross-examine
6 witnesses if any are called by the State, and
7 representation by counsel and if the defendant is indigent
8 to have counsel appointed for him. The rules of evidence
9 applicable in criminal trials in this State shall not
10 govern the admissibility of evidence at such hearing.
11 Information used by the court in its findings or stated in
12 or offered in connection with hearings for increase or
13 revocation of bail may be by way of proffer based upon
14 reliable information offered by the State or defendant. All
15 evidence shall be admissible if it is relevant and reliable
16 regardless of whether it would be admissible under the
17 rules of evidence applicable at criminal trials. A motion
18 by the defendant to suppress evidence or to suppress a
19 confession shall not be entertained at such a hearing.
20 Evidence that proof may have been obtained as a result of
21 an unlawful search and seizure or through improper
22 interrogation is not relevant to this hearing.

23 (3) Upon a finding by the court that the State has
24 established by clear and convincing evidence that the
25 defendant has committed a forcible felony or a Class 2 or
26 greater offense under the Illinois Controlled Substances

1 Act, the Cannabis Control Act, or the Methamphetamine
2 Control and Community Protection Act while admitted to
3 bail, or where the defendant is on bail for a felony
4 domestic battery (enhanced pursuant to subsection (b) of
5 Section 12-3.2 of the Criminal Code of 1961 or the Criminal
6 Code of 2012), aggravated domestic battery, aggravated
7 battery, unlawful restraint, aggravated unlawful restraint
8 or domestic battery in violation of item (1) of subsection
9 (a) of Section 12-3.2 of the Criminal Code of 1961 or the
10 Criminal Code of 2012 against a family or household member
11 as defined in Section 112A-3 of this Code and the violation
12 is an offense of domestic battery, against the same victim,
13 the court shall revoke the bail of the defendant and hold
14 the defendant for trial without bail. Neither the finding
15 of the court nor any transcript or other record of the
16 hearing shall be admissible in the State's case in chief,
17 but shall be admissible for impeachment, or as provided in
18 Section 115-10.1 of this Code or in a perjury proceeding.

19 (4) If the bail of any defendant is revoked pursuant to
20 paragraph (f) (3) of this Section, the defendant may demand
21 and shall be entitled to be brought to trial on the offense
22 with respect to which he was formerly released on bail
23 within 90 days after the date on which his bail was
24 revoked. If the defendant is not brought to trial within
25 the 90 day period required by the preceding sentence, he
26 shall not be held longer without bail. In computing the 90

1 day period, the court shall omit any period of delay
2 resulting from a continuance granted at the request of the
3 defendant.

4 (5) If the defendant either is arrested on a warrant
5 issued pursuant to this Code or is arrested for an
6 unrelated offense and it is subsequently discovered that
7 the defendant is a subject of another warrant or warrants
8 issued pursuant to this Code, the defendant shall be
9 transferred promptly to the court which issued such
10 warrant. If, however, the defendant appears initially
11 before a court other than the court which issued such
12 warrant, the non-issuing court shall not alter the amount
13 of bail heretofore set on such warrant unless the court
14 sets forth on the record of proceedings the conclusions of
15 law and facts which are the basis for such altering of
16 another court's bond. The non-issuing court shall not alter
17 another courts bail set on a warrant unless the interests
18 of justice and public safety are served by such action.

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

23 (Source: P.A. 97-1150, eff. 1-25-13.)