



Sen. Donne E. Trotter

**Filed: 5/19/2017**

10000SB0552sam002

LRB100 04861 SLF 26626 a

1 AMENDMENT TO SENATE BILL 552

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 552, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Code of Criminal Procedure of 1963 is  
6 amended by changing Section 110-6 as follows:

7 (725 ILCS 5/110-6) (from Ch. 38, par. 110-6)

8 Sec. 110-6. (a) Upon verified application by the State or  
9 the defendant 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 pursuant to subsection (f) of this  
14 Section or if bail has been denied to the defendant pursuant to  
15 subsection (e) of Section 110-6.1 or subsection (e) of Section  
16 110-6.3, the defendant shall be required to present a verified

1 application setting forth in detail any new facts not known or  
2 obtainable at the time of the previous revocation or denial of  
3 bail proceedings. If the court grants bail where it has been  
4 previously revoked or denied, the court shall state on the  
5 record of the proceedings the findings of facts and conclusion  
6 of law upon which such order is based.

7 (a-5) In addition to any other available motion or  
8 procedure under this Code, a first time offender in custody for  
9 a non-violent misdemeanor offense due to an inability to post  
10 monetary bail shall be brought before the court at the next  
11 available court date or 7 calendar days from the date bail was  
12 set, whichever is earlier, for a rehearing on the amount or  
13 conditions of bail or release pending further court  
14 proceedings. For purposes of this subsection (a-5),  
15 "non-violent misdemeanor" means an offense which does not  
16 involve the use or threat of physical force or violence against  
17 a person.

18 (b) Violation of the conditions of Section 110-10 of this  
19 Code or any special conditions of bail as ordered by the court  
20 shall constitute grounds for the court to increase the amount  
21 of bail, or otherwise alter the conditions of bail, or, where  
22 the alleged offense committed on bail is a forcible felony in  
23 Illinois or a Class 2 or greater offense under the Illinois  
24 Controlled Substances Act, the Cannabis Control Act, or the  
25 Methamphetamine Control and Community Protection Act, revoke  
26 bail pursuant to the appropriate provisions of subsection (e)

1 of this Section.

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

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

7 (e) Upon verified application by the State stating facts or  
8 circumstances constituting a violation or a threatened  
9 violation of any of the conditions of the bail bond the court  
10 may issue a warrant commanding any peace officer to bring the  
11 defendant without unnecessary delay before the court for a  
12 hearing on the matters set forth in the application. If the  
13 actual court before which the proceeding is pending is absent  
14 or otherwise unavailable another court may issue a warrant  
15 pursuant to this Section. When the defendant is charged with a  
16 felony offense and while free on bail is charged with a  
17 subsequent felony offense and is the subject of a proceeding  
18 set forth in Section 109-1 or 109-3 of this Code, upon the  
19 filing of a verified petition by the State alleging a violation  
20 of Section 110-10 (a) (4) of this Code, the court shall without  
21 prior notice to the defendant, grant leave to file such  
22 application and shall order the transfer of the defendant and  
23 the application without unnecessary delay to the court before  
24 which the previous felony matter is pending for a hearing as  
25 provided in subsection (b) or this subsection of this Section.  
26 The defendant shall be held without bond pending transfer to

1 and a hearing before such court. At the conclusion of the  
2 hearing based on a violation of the conditions of Section  
3 110-10 of this Code or any special conditions of bail as  
4 ordered by the court the court may enter an order increasing  
5 the amount of bail or alter the conditions of bail as deemed  
6 appropriate.

7 (f) Where the alleged violation consists of the violation  
8 of one or more felony statutes of any jurisdiction which would  
9 be a forcible felony in Illinois or a Class 2 or greater  
10 offense under the Illinois Controlled Substances Act, the  
11 Cannabis Control Act, or the Methamphetamine Control and  
12 Community Protection Act and the defendant is on bail for the  
13 alleged commission of a felony, or where the defendant is on  
14 bail for a felony domestic battery (enhanced pursuant to  
15 subsection (b) of Section 12-3.2 of the Criminal Code of 1961  
16 or the Criminal Code of 2012), aggravated domestic battery,  
17 aggravated battery, unlawful restraint, aggravated unlawful  
18 restraint or domestic battery in violation of item (1) of  
19 subsection (a) of Section 12-3.2 of the Criminal Code of 1961  
20 or the Criminal Code of 2012 against a family or household  
21 member as defined in Section 112A-3 of this Code and the  
22 violation is an offense of domestic battery against the same  
23 victim the court shall, on the motion of the State or its own  
24 motion, revoke bail in accordance with the following  
25 provisions:

26 (1) The court shall hold the defendant without bail

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

15 (2) At a hearing on the alleged violation the State has  
16 the burden of going forward and proving the violation by  
17 clear and convincing evidence. The evidence shall be  
18 presented in open court with the opportunity to testify, to  
19 present witnesses in his behalf, and to cross-examine  
20 witnesses if any are called by the State, and  
21 representation by counsel and if the defendant is indigent  
22 to have counsel appointed for him. The rules of evidence  
23 applicable in criminal trials in this State shall not  
24 govern the admissibility of evidence at such hearing.  
25 Information used by the court in its findings or stated in  
26 or offered in connection with hearings for increase or

1 revocation of bail may be by way of proffer based upon  
2 reliable information offered by the State or defendant. All  
3 evidence shall be admissible if it is relevant and reliable  
4 regardless of whether it would be admissible under the  
5 rules of evidence applicable at criminal trials. A motion  
6 by the defendant to suppress evidence or to suppress a  
7 confession shall not be entertained at such a hearing.  
8 Evidence that proof may have been obtained as a result of  
9 an unlawful search and seizure or through improper  
10 interrogation is not relevant to this hearing.

11 (3) Upon a finding by the court that the State has  
12 established by clear and convincing evidence that the  
13 defendant has committed a forcible felony or a Class 2 or  
14 greater offense under the Illinois Controlled Substances  
15 Act, the Cannabis Control Act, or the Methamphetamine  
16 Control and Community Protection Act while admitted to  
17 bail, or where the defendant is on bail for a felony  
18 domestic battery (enhanced pursuant to subsection (b) of  
19 Section 12-3.2 of the Criminal Code of 1961 or the Criminal  
20 Code of 2012), aggravated domestic battery, aggravated  
21 battery, unlawful restraint, aggravated unlawful restraint  
22 or domestic battery in violation of item (1) of subsection  
23 (a) of Section 12-3.2 of the Criminal Code of 1961 or the  
24 Criminal Code of 2012 against a family or household member  
25 as defined in Section 112A-3 of this Code and the violation  
26 is an offense of domestic battery, against the same victim,

1 the court shall revoke the bail of the defendant and hold  
2 the defendant for trial without bail. Neither the finding  
3 of the court nor any transcript or other record of the  
4 hearing shall be admissible in the State's case in chief,  
5 but shall be admissible for impeachment, or as provided in  
6 Section 115-10.1 of this Code or in a perjury proceeding.

7 (4) If the bail of any defendant is revoked pursuant to  
8 paragraph (f) (3) of this Section, the defendant may demand  
9 and shall be entitled to be brought to trial on the offense  
10 with respect to which he was formerly released on bail  
11 within 90 days after the date on which his bail was  
12 revoked. If the defendant is not brought to trial within  
13 the 90 day period required by the preceding sentence, he  
14 shall not be held longer without bail. In computing the 90  
15 day period, the court shall omit any period of delay  
16 resulting from a continuance granted at the request of the  
17 defendant.

18 (5) If the defendant either is arrested on a warrant  
19 issued pursuant to this Code or is arrested for an  
20 unrelated offense and it is subsequently discovered that  
21 the defendant is a subject of another warrant or warrants  
22 issued pursuant to this Code, the defendant shall be  
23 transferred promptly to the court which issued such  
24 warrant. If, however, the defendant appears initially  
25 before a court other than the court which issued such  
26 warrant, the non-issuing court shall not alter the amount

1 of bail heretofore set on such warrant unless the court  
2 sets forth on the record of proceedings the conclusions of  
3 law and facts which are the basis for such altering of  
4 another court's bond. The non-issuing court shall not alter  
5 another courts bail set on a warrant unless the interests  
6 of justice and public safety are served by such action.

7 (g) The State may appeal any order where the court has  
8 increased or reduced the amount of bail or altered the  
9 conditions of the bail bond or granted bail where it has  
10 previously been revoked.

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