



Sen. Bill Cunningham

Filed: 3/8/2017

10000SB1980sam001

LRB100 11410 SLF 22506 a

1 AMENDMENT TO SENATE BILL 1980

2 AMENDMENT NO. _____. Amend Senate Bill 1980 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Sections 110-4 and 110-10 as follows:

6 (725 ILCS 5/110-4) (from Ch. 38, par. 110-4)

7 Sec. 110-4. Bailable Offenses.

8 (a) All persons shall be bailable before conviction, except
9 the following offenses where the proof is evident or the
10 presumption great that the defendant is guilty of the offense:

11 (1) capital offenses;

12 (2) offenses for which a sentence of life imprisonment
13 may be imposed as a consequence of conviction;

14 (3) felony offenses for which a sentence of
15 imprisonment, without conditional and revocable release,
16 shall be imposed by law as a consequence of conviction,

1 where the court after a hearing, determines that the
2 release of the defendant would pose a real and present
3 threat to the physical safety of any person or persons;

4 (4) stalking or aggravated stalking, where the court,
5 after a hearing, determines that the release of the
6 defendant would pose a real and present threat to the
7 physical safety of the alleged victim of the offense and
8 denial of bail is necessary to prevent fulfillment of the
9 threat upon which the charge is based; ~~or~~

10 (5) a violation of Section 24-1.1, 24-1.2, 24-1.2-5,
11 24-1.6, 24-1.7, or 21-1.8 of the Criminal Code of 1961 or
12 the Criminal Code of 2012 or unlawful use of weapons in
13 violation of item (4) of subsection (a) of Section 24-1 of
14 the Criminal Code of 1961 or the Criminal Code of 2012 when
15 that offense occurred in a school or in any conveyance
16 owned, leased, or contracted by a school to transport
17 students to or from school or a school-related activity, or
18 on any public way within 1,000 feet of real property
19 comprising any school, where the court, after a hearing,
20 determines that the release of the defendant would pose a
21 real and present threat to the physical safety of any
22 person and denial of bail is necessary to prevent
23 fulfillment of that threat; or

24 (6) making a terrorist threat in violation of Section
25 29D-20 of the Criminal Code of 1961 or the Criminal Code of
26 2012 or an attempt to commit the offense of making a

1 terrorist threat, where the court, after a hearing,
2 determines that the release of the defendant would pose a
3 real and present threat to the physical safety of any
4 person and denial of bail is necessary to prevent
5 fulfillment of that threat.

6 (a-5) If bail is set for any offense under this Section
7 including, but not limited to, an offense in paragraph (5) of
8 subsection (a) of this Section, the State's Attorney may
9 request a source of bail hearing under subsection (b-5) of
10 Section 110-5 of this Article.

11 (b) A person seeking release on bail who is charged with a
12 capital offense or an offense for which a sentence of life
13 imprisonment may be imposed shall not be bailable until a
14 hearing is held wherein such person has the burden of
15 demonstrating that the proof of his guilt is not evident and
16 the presumption is not great.

17 (c) Where it is alleged that bail should be denied to a
18 person upon the grounds that the person presents a real and
19 present threat to the physical safety of any person or persons,
20 the burden of proof of such allegations shall be upon the
21 State.

22 (d) When it is alleged that bail should be denied to a
23 person charged with stalking or aggravated stalking upon the
24 grounds set forth in Section 110-6.3 of this Code, the burden
25 of proof of those allegations shall be upon the State.

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

1 (725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

2 Sec. 110-10. Conditions of bail bond.

3 (a) If a person is released prior to conviction, either
4 upon payment of bail security or on his or her own
5 recognizance, the conditions of the bail bond shall be that he
6 or she will:

7 (1) Appear to answer the charge in the court having
8 jurisdiction on a day certain and thereafter as ordered by
9 the court until discharged or final order of the court;

10 (2) Submit himself or herself to the orders and process
11 of the court;

12 (3) Not depart this State without leave of the court;

13 (4) Not violate any criminal statute of any
14 jurisdiction;

15 (5) At a time and place designated by the court,
16 surrender all firearms in his or her possession to a law
17 enforcement officer designated by the court to take custody
18 of and impound the firearms and physically surrender his or
19 her Firearm Owner's Identification Card to the clerk of the
20 circuit court when the offense the person has been charged
21 with is a forcible felony, stalking, aggravated stalking,
22 domestic battery, any violation of the Illinois Controlled
23 Substances Act, the Methamphetamine Control and Community
24 Protection Act, or the Cannabis Control Act that is
25 classified as a Class 2 or greater felony, a violation of

1 paragraph (4) of subsection (a) of Section 24-1 of the
2 Criminal Code of 1961 or Criminal Code of 2012, when that
3 offense occurred in a school or in any conveyance owned,
4 leased, or contracted by a school to transport students to
5 or from school or a school-related activity, or on any
6 public way within 1,000 feet of real property comprising
7 any school, or any felony violation of Article 24 of the
8 Criminal Code of 1961 or the Criminal Code of 2012; the
9 court may, however, forgo the imposition of this condition
10 when the circumstances of the case clearly do not warrant
11 it or when its imposition would be impractical; if the
12 Firearm Owner's Identification Card is confiscated, the
13 clerk of the circuit court shall mail the confiscated card
14 to the Illinois State Police; all legally possessed
15 firearms shall be returned to the person upon the charges
16 being dismissed, or if the person is found not guilty,
17 unless the finding of not guilty is by reason of insanity;
18 and

19 (6) At a time and place designated by the court, submit
20 to a psychological evaluation when the person has been
21 charged with a violation of item (4) of subsection (a) of
22 Section 24-1 of the Criminal Code of 1961 or the Criminal
23 Code of 2012 and that violation occurred in a school or in
24 any conveyance owned, leased, or contracted by a school to
25 transport students to or from school or a school-related
26 activity, or on any public way within 1,000 feet of real

1 property comprising any school.

2 Psychological evaluations ordered pursuant to this Section
3 shall be completed promptly and made available to the State,
4 the defendant, and the court. As a further condition of bail
5 under these circumstances, the court shall order the defendant
6 to refrain from entering upon the property of the school,
7 including any conveyance owned, leased, or contracted by a
8 school to transport students to or from school or a
9 school-related activity, or on any public way within 1,000 feet
10 of real property comprising any school. Upon receipt of the
11 psychological evaluation, either the State or the defendant may
12 request a change in the conditions of bail, pursuant to Section
13 110-6 of this Code. The court may change the conditions of bail
14 to include a requirement that the defendant follow the
15 recommendations of the psychological evaluation, including
16 undergoing psychiatric treatment. The conclusions of the
17 psychological evaluation and any statements elicited from the
18 defendant during its administration are not admissible as
19 evidence of guilt during the course of any trial on the charged
20 offense, unless the defendant places his or her mental
21 competency in issue.

22 (b) The court may impose other conditions, such as the
23 following, if the court finds that such conditions are
24 reasonably necessary to assure the defendant's appearance in
25 court, protect the public from the defendant, or prevent the
26 defendant's unlawful interference with the orderly

1 administration of justice:

2 (1) Report to or appear in person before such person or
3 agency as the court may direct;

4 (2) Refrain from possessing a firearm or other
5 dangerous weapon;

6 (3) Refrain from approaching or communicating with
7 particular persons or classes of persons;

8 (4) Refrain from going to certain described
9 geographical areas or premises;

10 (5) Refrain from engaging in certain activities or
11 indulging in intoxicating liquors or in certain drugs;

12 (6) Undergo treatment for drug addiction or
13 alcoholism;

14 (7) Undergo medical or psychiatric treatment;

15 (8) Work or pursue a course of study or vocational
16 training;

17 (9) Attend or reside in a facility designated by the
18 court;

19 (10) Support his or her dependents;

20 (11) If a minor resides with his or her parents or in a
21 foster home, attend school, attend a non-residential
22 program for youths, and contribute to his or her own
23 support at home or in a foster home;

24 (12) Observe any curfew ordered by the court;

25 (13) Remain in the custody of such designated person or
26 organization agreeing to supervise his release. Such third

1 party custodian shall be responsible for notifying the
2 court if the defendant fails to observe the conditions of
3 release which the custodian has agreed to monitor, and
4 shall be subject to contempt of court for failure so to
5 notify the court;

6 (14) Be placed under direct supervision of the Pretrial
7 Services Agency, Probation Department or Court Services
8 Department in a pretrial bond home supervision capacity
9 with or without the use of an approved electronic
10 monitoring device subject to Article 8A of Chapter V of the
11 Unified Code of Corrections;

12 (14.1) The court shall impose upon a defendant who is
13 charged with any alcohol, cannabis, methamphetamine, or
14 controlled substance violation and is placed under direct
15 supervision of the Pretrial Services Agency, Probation
16 Department or Court Services Department in a pretrial bond
17 home supervision capacity with the use of an approved
18 monitoring device, as a condition of such bail bond, a fee
19 that represents costs incidental to the electronic
20 monitoring for each day of such bail supervision ordered by
21 the court, unless after determining the inability of the
22 defendant to pay the fee, the court assesses a lesser fee
23 or no fee as the case may be. The fee shall be collected by
24 the clerk of the circuit court, except as provided in an
25 administrative order of the Chief Judge of the circuit
26 court. The clerk of the circuit court shall pay all monies

1 collected from this fee to the county treasurer for deposit
2 in the substance abuse services fund under Section 5-1086.1
3 of the Counties Code, except as provided in an
4 administrative order of the Chief Judge of the circuit
5 court.

6 The Chief Judge of the circuit court of the county may
7 by administrative order establish a program for electronic
8 monitoring of offenders with regard to drug-related and
9 alcohol-related offenses, in which a vendor supplies and
10 monitors the operation of the electronic monitoring
11 device, and collects the fees on behalf of the county. The
12 program shall include provisions for indigent offenders
13 and the collection of unpaid fees. The program shall not
14 unduly burden the offender and shall be subject to review
15 by the Chief Judge.

16 The Chief Judge of the circuit court may suspend any
17 additional charges or fees for late payment, interest, or
18 damage to any device;

19 (14.2) The court shall impose upon all defendants,
20 including those defendants subject to paragraph (14.1)
21 above, placed under direct supervision of the Pretrial
22 Services Agency, Probation Department or Court Services
23 Department in a pretrial bond home supervision capacity
24 with the use of an approved monitoring device, as a
25 condition of such bail bond, a fee which shall represent
26 costs incidental to such electronic monitoring for each day

1 of such bail supervision ordered by the court, unless after
2 determining the inability of the defendant to pay the fee,
3 the court assesses a lesser fee or no fee as the case may
4 be. The fee shall be collected by the clerk of the circuit
5 court, except as provided in an administrative order of the
6 Chief Judge of the circuit court. The clerk of the circuit
7 court shall pay all monies collected from this fee to the
8 county treasurer who shall use the monies collected to
9 defray the costs of corrections. The county treasurer shall
10 deposit the fee collected in the county working cash fund
11 under Section 6-27001 or Section 6-29002 of the Counties
12 Code, as the case may be, except as provided in an
13 administrative order of the Chief Judge of the circuit
14 court.

15 The Chief Judge of the circuit court of the county may
16 by administrative order establish a program for electronic
17 monitoring of offenders with regard to drug-related and
18 alcohol-related offenses, in which a vendor supplies and
19 monitors the operation of the electronic monitoring
20 device, and collects the fees on behalf of the county. The
21 program shall include provisions for indigent offenders
22 and the collection of unpaid fees. The program shall not
23 unduly burden the offender and shall be subject to review
24 by the Chief Judge.

25 The Chief Judge of the circuit court may suspend any
26 additional charges or fees for late payment, interest, or

1 damage to any device;

2 (14.3) The Chief Judge of the Judicial Circuit may
3 establish reasonable fees to be paid by a person receiving
4 pretrial services while under supervision of a pretrial
5 services agency, probation department, or court services
6 department. Reasonable fees may be charged for pretrial
7 services including, but not limited to, pretrial
8 supervision, diversion programs, electronic monitoring,
9 victim impact services, drug and alcohol testing, DNA
10 testing, GPS electronic monitoring, assessments and
11 evaluations related to domestic violence and other
12 victims, and victim mediation services. The person
13 receiving pretrial services may be ordered to pay all costs
14 incidental to pretrial services in accordance with his or
15 her ability to pay those costs;

16 (14.4) For persons charged with violating Section
17 11-501 of the Illinois Vehicle Code, refrain from operating
18 a motor vehicle not equipped with an ignition interlock
19 device, as defined in Section 1-129.1 of the Illinois
20 Vehicle Code, pursuant to the rules promulgated by the
21 Secretary of State for the installation of ignition
22 interlock devices. Under this condition the court may allow
23 a defendant who is not self-employed to operate a vehicle
24 owned by the defendant's employer that is not equipped with
25 an ignition interlock device in the course and scope of the
26 defendant's employment;

1 (15) Comply with the terms and conditions of an order
2 of protection issued by the court under the Illinois
3 Domestic Violence Act of 1986 or an order of protection
4 issued by the court of another state, tribe, or United
5 States territory;

6 (16) Under Section 110-6.5 comply with the conditions
7 of the drug testing program; and

8 (17) Such other reasonable conditions as the court may
9 impose.

10 (c) When a person is charged with an offense under Section
11 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14,
12 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the
13 Criminal Code of 2012, involving a victim who is a minor under
14 18 years of age living in the same household with the defendant
15 at the time of the offense, in granting bail or releasing the
16 defendant on his own recognizance, the judge shall impose
17 conditions to restrict the defendant's access to the victim
18 which may include, but are not limited to conditions that he
19 will:

20 1. Vacate the household.

21 2. Make payment of temporary support to his dependents.

22 3. Refrain from contact or communication with the child
23 victim, except as ordered by the court.

24 (d) When a person is charged with a criminal offense and
25 the victim is a family or household member as defined in
26 Article 112A, conditions shall be imposed at the time of the

1 defendant's release on bond that restrict the defendant's
2 access to the victim. Unless provided otherwise by the court,
3 the restrictions shall include requirements that the defendant
4 do the following:

5 (1) refrain from contact or communication with the
6 victim for a minimum period of 72 hours following the
7 defendant's release; and

8 (2) refrain from entering or remaining at the victim's
9 residence for a minimum period of 72 hours following the
10 defendant's release.

11 (e) Local law enforcement agencies shall develop
12 standardized bond forms for use in cases involving family or
13 household members as defined in Article 112A, including
14 specific conditions of bond as provided in subsection (d).
15 Failure of any law enforcement department to develop or use
16 those forms shall in no way limit the applicability and
17 enforcement of subsections (d) and (f).

18 (f) If the defendant is admitted to bail after conviction
19 the conditions of the bail bond shall be that he will, in
20 addition to the conditions set forth in subsections (a) and (b)
21 hereof:

22 (1) Duly prosecute his appeal;

23 (2) Appear at such time and place as the court may
24 direct;

25 (3) Not depart this State without leave of the court;

26 (4) Comply with such other reasonable conditions as the

1 court may impose; and

2 (5) If the judgment is affirmed or the cause reversed
3 and remanded for a new trial, forthwith surrender to the
4 officer from whose custody he was bailed.

5 (g) Upon a finding of guilty for any felony offense, the
6 defendant shall physically surrender, at a time and place
7 designated by the court, any and all firearms in his or her
8 possession and his or her Firearm Owner's Identification Card
9 as a condition of remaining on bond pending sentencing.

10 (Source: P.A. 99-797, eff. 8-12-16.)".