



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB3567

Introduced 2/14/2020, by Sen. John F. Curran

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-5.3 new  
725 ILCS 5/110-10

from Ch. 38, par. 110-10

Amends the Code of Criminal Procedure of 1963. Provides that subject to certain exceptions, a person who is charged with a violent crime shall appear before the court for the setting of bail and the establishment of bond conditions. Establishes factors that the court shall consider before setting bail and bond conditions for a person who appears before the court because the person is charged with a violent crime. Provides that upon the court's own motion or the motion of a party and upon any terms that the court may direct, the court may permit a person, who is required to appear before it because the person is charged with a violent crime, to appear by video conferencing equipment. Provides that if, in the opinion of the court, the appearance in person or by video conferencing equipment of a person who is charged with a misdemeanor and who is required to appear before the court because the person is charged with a violent crime is not practicable, the court may waive the appearance and release the person on bail on one or both of the following types of bail in an amount set by the court: (1) a bail bond secured by a deposit of 10% of the amount of the bond in cash; or (2) a surety bond, a bond secured by real estate or securities as allowed by law, or the deposit of cash, at the option of the person. Provides that the statute does not create a right in a person to appear before the court for the setting of bail or prohibit a court from requiring any person charged with a violent crime as defined in these provisions from appearing before the court for the setting of bail. Defines "violent crime".

LRB101 18613 RLC 68068 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 110-10 and by adding Section  
6 110-5.3 as follows:

7 (725 ILCS 5/110-5.3 new)

8 Sec. 110-5.3. Bail for persons charged with violent crimes.

9 (a) In this Section, "violent crime" means:

10 (1) any felony in which force or threat of force was  
11 used against the victim;

12 (2) any offense involving sexual exploitation, sexual  
13 conduct, or sexual penetration;

14 (3) a violation of Section 11-20.1, 11-20.1B, 11-20.3,  
15 11-23, or 11-23.5 of the Criminal Code of 1961 or the  
16 Criminal Code of 2012;

17 (4) domestic battery or stalking;

18 (5) violation of an order of protection, a civil no  
19 contact order, or a stalking no contact order;

20 (6) any misdemeanor which results in death or great  
21 bodily harm;

22 (7) any misdemeanor which involved the use or threat of  
23 use of a deadly weapon; or

1           (8) any violation of Section 9-3 of the Criminal Code  
2           of 1961 or the Criminal Code of 2012, or Section 11-501 of  
3           the Illinois Vehicle Code, or a similar provision of a  
4           local ordinance, if the violation resulted in serious  
5           injury or death.

6           "Violent crime" also includes any action committed by a  
7           juvenile that would be a violent crime if committed by an  
8           adult.

9           (b) Subject to subsection (d), a person who is charged with  
10          a violent crime shall appear before the court for the setting  
11          of bail and the establishment of bond conditions.

12          (c) The court shall consider all the following, in addition  
13          to any other circumstances considered by the court, before  
14          setting bail and bond conditions for a person who appears  
15          before the court under subsection (b):

16               (1) whether the person has a history of domestic  
17               violence or a history of other violent acts;

18               (2) the mental health of the person;

19               (3) whether the person has a history of violating the  
20               orders of any court or government entity;

21               (4) whether the person is potentially a threat to any  
22               other person;

23               (5) whether the person has access to deadly weapons or  
24               any history of using deadly weapons;

25               (6) whether the person has a history of abusing alcohol  
26               or any controlled substance;

1           (7) the severity of the alleged violence that is the  
2           basis of the alleged offense, including, but not limited  
3           to, the duration of the alleged violent incident, and  
4           whether the alleged violent incident involved serious  
5           physical injury, sexual assault, strangulation, abuse  
6           during the alleged victim's pregnancy, abuse of pets, or  
7           forcible entry to gain access to the alleged victim;

8           (8) whether a separation of the person from the alleged  
9           victim or a termination of the relationship between the  
10           person and the alleged victim has recently occurred or is  
11           pending;

12           (9) whether the person has exhibited obsessive or  
13           controlling behaviors toward the alleged victim,  
14           including, but not limited to, stalking, surveillance, or  
15           isolation of the alleged victim;

16           (10) whether the person has expressed suicidal or  
17           homicidal ideations; and

18           (11) any information contained in the complaint and any  
19           police reports, affidavits, or other documents  
20           accompanying the complaint.

21           (d) Upon the court's own motion or the motion of a party  
22           and upon any terms that the court may direct, the court may  
23           permit a person, who is required to appear before it because  
24           the person is charged with a violent crime, to appear by video  
25           conferencing equipment. If, in the opinion of the court, the  
26           appearance in person or by video conferencing equipment of a

1 person who is charged with a misdemeanor and who is required to  
2 appear before the court because the person is charged with a  
3 violent crime is not practicable, the court may waive the  
4 appearance and release the person on bail on one or both of the  
5 following types of bail in an amount set by the court:

6 (1) a bail bond secured by a deposit of 10% of the  
7 amount of the bond in cash; or

8 (2) a surety bond, a bond secured by real estate or  
9 securities as allowed by law, or the deposit of cash, at  
10 the option of the person.

11 (e) This Section does not create a right in a person to  
12 appear before the court for the setting of bail or prohibit a  
13 court from requiring any person charged with a violent crime  
14 who is not described in subsection (a) from appearing before  
15 the court for the setting of bail.

16 (725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

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

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

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

25 (2) Submit himself or herself to the orders and process

1 of the court;

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

3 (4) Not violate any criminal statute of any  
4 jurisdiction;

5 (5) At a time and place designated by the court, but in  
6 no circumstances greater than 72 hours from the time of the  
7 entry of such order, surrender all firearms in his or her  
8 possession to a law enforcement officer designated by the  
9 court to take custody of and impound the firearms and  
10 physically surrender his or her Firearm Owner's  
11 Identification Card to the clerk of the circuit court when  
12 the offense the person has been charged with is a forcible  
13 felony, stalking, aggravated stalking, domestic battery,  
14 battery, aggravated battery, any offense that causes great  
15 bodily harm or involves the use of a deadly weapon, any  
16 violation of the Illinois Controlled Substances Act, the  
17 Methamphetamine Control and Community Protection Act, or  
18 the Cannabis Control Act that is classified as a Class 2 or  
19 greater felony, or any felony violation of Article 24 of  
20 the Criminal Code of 1961 or the Criminal Code of 2012; the  
21 court may, however, forgo the imposition of this condition  
22 when the circumstances of the case clearly do not warrant  
23 it or when its imposition would be impractical; if the  
24 Firearm Owner's Identification Card is confiscated, the  
25 clerk of the circuit court shall mail the confiscated card  
26 to the Illinois State Police; all legally possessed

1 firearms shall be returned to the person upon the charges  
2 being dismissed, or if the person is found not guilty,  
3 unless the finding of not guilty is by reason of insanity;  
4 and

5 (6) At a time and place designated by the court, submit  
6 to a psychological evaluation when the person has been  
7 charged with a violation of item (4) of subsection (a) of  
8 Section 24-1 of the Criminal Code of 1961 or the Criminal  
9 Code of 2012 and that violation occurred in a school or in  
10 any conveyance owned, leased, or contracted by a school to  
11 transport students to or from school or a school-related  
12 activity, or on any public way within 1,000 feet of real  
13 property comprising any school.

14 Psychological evaluations ordered pursuant to this Section  
15 shall be completed promptly and made available to the State,  
16 the defendant, and the court. As a further condition of bail  
17 under these circumstances, the court shall order the defendant  
18 to refrain from entering upon the property of the school,  
19 including any conveyance owned, leased, or contracted by a  
20 school to transport students to or from school or a  
21 school-related activity, or on any public way within 1,000 feet  
22 of real property comprising any school. Upon receipt of the  
23 psychological evaluation, either the State or the defendant may  
24 request a change in the conditions of bail, pursuant to Section  
25 110-6 of this Code. The court may change the conditions of bail  
26 to include a requirement that the defendant follow the

1 recommendations of the psychological evaluation, including  
2 undergoing psychiatric treatment. The conclusions of the  
3 psychological evaluation and any statements elicited from the  
4 defendant during its administration are not admissible as  
5 evidence of guilt during the course of any trial on the charged  
6 offense, unless the defendant places his or her mental  
7 competency in issue.

8 (b) The court may impose other conditions, such as the  
9 following, if the court finds that such conditions are  
10 reasonably necessary to assure the defendant's appearance in  
11 court, protect the public from the defendant, or prevent the  
12 defendant's unlawful interference with the orderly  
13 administration of justice:

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

16 (2) Refrain from possessing a firearm or other  
17 dangerous weapon;

18 (3) Refrain from approaching or communicating with  
19 particular persons or classes of persons;

20 (4) Refrain from going to certain described  
21 geographical areas or premises;

22 (5) Refrain from engaging in certain activities or  
23 indulging in intoxicating liquors or in certain drugs;

24 (6) Undergo treatment for drug addiction or  
25 alcoholism;

26 (7) Undergo medical or psychiatric treatment;



1           (8) Work or pursue a course of study or vocational  
2 training;

3           (9) Attend or reside in a facility designated by the  
4 court;

5           (10) Support his or her dependents;

6           (11) If a minor resides with his or her parents or in a  
7 foster home, attend school, attend a non-residential  
8 program for youths, and contribute to his or her own  
9 support at home or in a foster home;

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

11          (13) Remain in the custody of such designated person or  
12 organization agreeing to supervise his release. Such third  
13 party custodian shall be responsible for notifying the  
14 court if the defendant fails to observe the conditions of  
15 release which the custodian has agreed to monitor, and  
16 shall be subject to contempt of court for failure so to  
17 notify the court;

18          (14) Be placed under direct supervision of the Pretrial  
19 Services Agency, Probation Department or Court Services  
20 Department in a pretrial bond home supervision capacity  
21 with or without the use of an approved electronic  
22 monitoring device subject to Article 8A of Chapter V of the  
23 Unified Code of Corrections;

24          (14.1) The court shall impose upon a defendant who is  
25 charged with any alcohol, cannabis, methamphetamine, or  
26 controlled substance violation and is placed under direct

1 supervision of the Pretrial Services Agency, Probation  
2 Department or Court Services Department in a pretrial bond  
3 home supervision capacity with the use of an approved  
4 monitoring device, as a condition of such bail bond, a fee  
5 that represents costs incidental to the electronic  
6 monitoring for each day of such bail supervision ordered by  
7 the court, unless after determining the inability of the  
8 defendant to pay the fee, the court assesses a lesser fee  
9 or no fee as the case may be. The fee shall be collected by  
10 the clerk of the circuit court, except as provided in an  
11 administrative order of the Chief Judge of the circuit  
12 court. The clerk of the circuit court shall pay all monies  
13 collected from this fee to the county treasurer for deposit  
14 in the substance abuse services fund under Section 5-1086.1  
15 of the Counties Code, except as provided in an  
16 administrative order of the Chief Judge of the circuit  
17 court.

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

1 by the Chief Judge.

2 The Chief Judge of the circuit court may suspend any  
3 additional charges or fees for late payment, interest, or  
4 damage to any device;

5 (14.2) The court shall impose upon all defendants,  
6 including those defendants subject to paragraph (14.1)  
7 above, placed under direct supervision of the Pretrial  
8 Services Agency, Probation Department or Court Services  
9 Department in a pretrial bond home supervision capacity  
10 with the use of an approved monitoring device, as a  
11 condition of such bail bond, a fee which shall represent  
12 costs incidental to such electronic monitoring for each day  
13 of such bail supervision ordered by the court, unless after  
14 determining the inability of the defendant to pay the fee,  
15 the court assesses a lesser fee or no fee as the case may  
16 be. The fee shall be collected by the clerk of the circuit  
17 court, except as provided in an administrative order of the  
18 Chief Judge of the circuit court. The clerk of the circuit  
19 court shall pay all monies collected from this fee to the  
20 county treasurer who shall use the monies collected to  
21 defray the costs of corrections. The county treasurer shall  
22 deposit the fee collected in the county working cash fund  
23 under Section 6-27001 or Section 6-29002 of the Counties  
24 Code, as the case may be, except as provided in an  
25 administrative order of the Chief Judge of the circuit  
26 court.

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

11          The Chief Judge of the circuit court may suspend any  
12          additional charges or fees for late payment, interest, or  
13          damage to any device;

14          (14.3) The Chief Judge of the Judicial Circuit may  
15          establish reasonable fees to be paid by a person receiving  
16          pretrial services while under supervision of a pretrial  
17          services agency, probation department, or court services  
18          department. Reasonable fees may be charged for pretrial  
19          services including, but not limited to, pretrial  
20          supervision, diversion programs, electronic monitoring,  
21          victim impact services, drug and alcohol testing, DNA  
22          testing, GPS electronic monitoring, assessments and  
23          evaluations related to domestic violence and other  
24          victims, and victim mediation services. The person  
25          receiving pretrial services may be ordered to pay all costs  
26          incidental to pretrial services in accordance with his or

1 her ability to pay those costs;

2 (14.4) For persons charged with violating Section  
3 11-501 of the Illinois Vehicle Code, refrain from operating  
4 a motor vehicle not equipped with an ignition interlock  
5 device, as defined in Section 1-129.1 of the Illinois  
6 Vehicle Code, pursuant to the rules promulgated by the  
7 Secretary of State for the installation of ignition  
8 interlock devices. Under this condition the court may allow  
9 a defendant who is not self-employed to operate a vehicle  
10 owned by the defendant's employer that is not equipped with  
11 an ignition interlock device in the course and scope of the  
12 defendant's employment;

13 (15) Comply with the terms and conditions of an order  
14 of protection issued by the court under the Illinois  
15 Domestic Violence Act of 1986 or an order of protection  
16 issued by the court of another state, tribe, or United  
17 States territory;

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

20 (17) Such other reasonable conditions as the court may  
21 impose.

22 (c) When a person is charged with an offense under Section  
23 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14,  
24 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the  
25 Criminal Code of 2012, involving a victim who is a minor under  
26 18 years of age living in the same household with the defendant

1 at the time of the offense, in granting bail or releasing the  
2 defendant on his own recognizance, the judge shall impose  
3 conditions to restrict the defendant's access to the victim  
4 which may include, but are not limited to conditions that he  
5 will:

- 6 1. Vacate the household.
- 7 2. Make payment of temporary support to his dependents.
- 8 3. Refrain from contact or communication with the child  
9 victim, except as ordered by the court.

10 (d) When a person is charged with a criminal offense and  
11 the victim is a family or household member as defined in  
12 Article 112A, conditions shall be imposed at the time of the  
13 defendant's release on bond that restrict the defendant's  
14 access to the victim. Unless provided otherwise by the court,  
15 the restrictions shall include requirements that the defendant  
16 do the following:

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

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

23 (e) Local law enforcement agencies shall develop  
24 standardized bond forms for use in cases involving family or  
25 household members as defined in Article 112A, including  
26 specific conditions of bond as provided in subsection (d).

1 Failure of any law enforcement department to develop or use  
2 those forms shall in no way limit the applicability and  
3 enforcement of subsections (d) and (f).

4 (f) If the defendant is admitted to bail after conviction  
5 the conditions of the bail bond shall be that he will, in  
6 addition to the conditions set forth in subsections (a) and (b)  
7 hereof:

8 (1) Duly prosecute his appeal;

9 (2) Appear at such time and place as the court may  
10 direct;

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

12 (4) Comply with such other reasonable conditions as the  
13 court may impose; and

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

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

22 (h) In the event the defendant is unable to post bond, the  
23 court may impose a no contact provision with the victim or  
24 other interested party that shall be enforced while the  
25 defendant remains in custody.

26 (Source: P.A. 101-138, eff. 1-1-20.)