

# HB3361



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**HB3361**

Introduced 2/22/2021, by Rep. Deanne M. Mazzochi

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-6

from Ch. 38, par. 110-6

Amends the Code of Criminal Procedure of 1963. Provides that a person may not be brought before the court for a rehearing on the amount or conditions of bail or release if the person has been convicted of a felony and the offense for which the person is in custody involves the possession of a firearm.

LRB102 13537 KMF 18884 b

A BILL FOR

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. Modification of bail or conditions.

8 (a) Upon verified application by the State or the  
9 defendant or on its own motion the court before which the  
10 proceeding is pending may increase or reduce the amount of  
11 bail 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  
17 application setting forth in detail any new facts not known or  
18 obtainable at the time of the previous revocation or denial of  
19 bail proceedings. If the court grants bail where it has been  
20 previously revoked or denied, the court shall state on the  
21 record of the proceedings the findings of facts and conclusion  
22 of law upon which such order is based.

23 (a-5) In addition to any other available motion or

1 procedure under this Code, a person in custody solely for a  
2 Category B offense due to an inability to post monetary bail  
3 shall be brought before the court at the next available court  
4 date or 7 calendar days from the date bail was set, whichever  
5 is earlier, for a rehearing on the amount or conditions of bail  
6 or release pending further court proceedings. The court may  
7 reconsider conditions of release for any other person whose  
8 inability to post monetary bail is the sole reason for  
9 continued incarceration, including a person in custody for a  
10 Category A offense or a Category A offense and a Category B  
11 offense. The court may deny the rehearing permitted under this  
12 subsection (a-5) if the person has failed to appear as  
13 required before the court and is incarcerated based on a  
14 warrant for failure to appear on the same original criminal  
15 offense. A person may not be brought before the court for a  
16 rehearing on the amount or conditions of bail or release if the  
17 person has been convicted of a felony and the offense for which  
18 the person is in custody involves the possession of a firearm.

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

1 bail pursuant to the appropriate provisions of subsection (e)  
2 of this Section.

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

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

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

1 this Section. The defendant shall be held without bond pending  
2 transfer to and a hearing before such court. At the conclusion  
3 of the hearing based on a violation of the conditions of  
4 Section 110-10 of this Code or any special conditions of bail  
5 as ordered by the court the court may enter an order increasing  
6 the amount of bail or alter the conditions of bail as deemed  
7 appropriate.

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

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

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

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

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

1 of this Code and the violation is an offense of domestic  
2 battery, against the same victim, the court shall revoke  
3 the bail of the defendant and hold the defendant for trial  
4 without bail. Neither the finding of the court nor any  
5 transcript or other record of the hearing shall be  
6 admissible in the State's case in chief, but shall be  
7 admissible for impeachment, or as provided in Section  
8 115-10.1 of this Code or in a perjury proceeding.

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

20 (5) If the defendant either is arrested on a warrant  
21 issued pursuant to this Code or is arrested for an  
22 unrelated offense and it is subsequently discovered that  
23 the defendant is a subject of another warrant or warrants  
24 issued pursuant to this Code, the defendant shall be  
25 transferred promptly to the court which issued such  
26 warrant. If, however, the defendant appears initially



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

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

13          (Source: P.A. 100-1, eff. 1-1-18; 100-929, eff. 1-1-19.)