



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3569

Introduced 2/22/2021, by Rep. David A. Welter

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 from appearing before the court for the setting of bail. Defines "violent crime".

LRB102 13811 KMF 19161 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
9 crimes.

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

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

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

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

18 (4) domestic battery or stalking;

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

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

23 (7) any misdemeanor which involved the use or threat

1 of use of a deadly weapon; or

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

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

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

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

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

19 (2) the mental health of the person;

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

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

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

26 (6) whether the person has a history of abusing

1 alcohol or any controlled substance;

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

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

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

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

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

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

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

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

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

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

17 (725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (7) Undergo medical or psychiatric treatment;
- 2 (8) Work or pursue a course of study or vocational
3 training;
- 4 (9) Attend or reside in a facility designated by the
5 court;
- 6 (10) Support his or her dependents;
- 7 (11) If a minor resides with his or her parents or in a
8 foster home, attend school, attend a non-residential
9 program for youths, and contribute to his or her own
10 support at home or in a foster home;
- 11 (12) Observe any curfew ordered by the court;
- 12 (13) Remain in the custody of such designated person
13 or organization agreeing to supervise his release. Such
14 third party custodian shall be responsible for notifying
15 the court if the defendant fails to observe the conditions
16 of release which the custodian has agreed to monitor, and
17 shall be subject to contempt of court for failure so to
18 notify the court;
- 19 (14) Be placed under direct supervision of the
20 Pretrial Services Agency, Probation Department or Court
21 Services Department in a pretrial bond home supervision
22 capacity with or without the use of an approved electronic
23 monitoring device subject to Article 8A of Chapter V of
24 the Unified Code of Corrections;
- 25 (14.1) The court shall impose upon a defendant who is
26 charged with any alcohol, cannabis, methamphetamine, or

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

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

1 unduly burden the offender and shall be subject to review
2 by the Chief Judge.

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

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

1 the circuit court.

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

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

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

1 costs incidental to pretrial services in accordance with
2 his or her ability to pay those costs;

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

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

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

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

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

1 18 years of age living in the same household with the defendant
2 at the time of the offense, in granting bail or releasing the
3 defendant on his own recognizance, the judge shall impose
4 conditions to restrict the defendant's access to the victim
5 which may include, but are not limited to conditions that he
6 will:

7 1. Vacate the household.

8 2. Make payment of temporary support to his
9 dependents.

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

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

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

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

25 (e) Local law enforcement agencies shall develop
26 standardized bond forms for use in cases involving family or

1 household members as defined in Article 112A, including
2 specific conditions of bond as provided in subsection (d).
3 Failure of any law enforcement department to develop or use
4 those forms shall in no way limit the applicability and
5 enforcement of subsections (d) and (f).

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

10 (1) Duly prosecute his appeal;

11 (2) Appear at such time and place as the court may
12 direct;

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

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

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

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

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

1 defendant remains in custody.

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