



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

**HB4232**

Introduced 1/16/2024, by Rep. Patrick Windhorst

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-6

from Ch. 38, par. 110-6

Amends the Code of Criminal Procedure of 1963. Provides that, upon petition of the State's Attorney of the county prosecuting a defendant on pretrial release or upon motion of the court, the court may revoke or impose sanctions on a defendant who is released on pretrial release if the defendant has violated any of the conditions of pretrial release.

LRB103 35368 RLC 65433 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 110-6 as follows:

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

7 Sec. 110-6. Revocation of pretrial release, modification  
8 of conditions of pretrial release, and sanctions for  
9 violations of conditions of pretrial release.

10 (a) Except as otherwise provided in subsection (k), when  
11 ~~when~~ a defendant has previously been granted pretrial release  
12 under this Section for a felony or Class A misdemeanor, that  
13 pretrial release may be revoked only if the defendant is  
14 charged with a felony or Class A misdemeanor that is alleged to  
15 have occurred during the defendant's pretrial release after a  
16 hearing on the court's own motion or upon the filing of a  
17 verified petition by the State.

18 When a defendant released pretrial is charged with a  
19 violation of a protective order or was previously convicted of  
20 a violation of a protective order and the subject of the  
21 protective order is the same person as the victim in the  
22 current underlying matter, the State shall file a verified  
23 petition seeking revocation of pretrial release.

1           Upon the filing of a petition or upon motion of the court  
2 seeking revocation, the court shall order the transfer of the  
3 defendant and the petition or motion to the court before which  
4 the previous felony or Class A misdemeanor is pending. The  
5 defendant may be held in custody pending transfer to and a  
6 hearing before such court. The defendant shall be transferred  
7 to the court before which the previous matter is pending  
8 without unnecessary delay, and the revocation hearing shall  
9 occur within 72 hours of the filing of the State's petition or  
10 the court's motion for revocation.

11           A hearing at which pretrial release may be revoked must be  
12 conducted in person (and not by way of two-way audio-visual  
13 communication) unless the accused waives the right to be  
14 present physically in court, the court determines that the  
15 physical health and safety of any person necessary to the  
16 proceedings would be endangered by appearing in court, or the  
17 chief judge of the circuit orders use of that system due to  
18 operational challenges in conducting the hearing in person.  
19 Such operational challenges must be documented and approved by  
20 the chief judge of the circuit, and a plan to address the  
21 challenges through reasonable efforts must be presented and  
22 approved by the Administrative Office of the Illinois Courts  
23 every 6 months.

24           The court before which the previous felony matter or Class  
25 A misdemeanor is pending may revoke the defendant's pretrial  
26 release after a hearing. During the hearing for revocation,

1 the defendant shall be represented by counsel and have an  
2 opportunity to be heard regarding the violation and evidence  
3 in mitigation. The court shall consider all relevant  
4 circumstances, including, but not limited to, the nature and  
5 seriousness of the violation or criminal act alleged. The  
6 State shall bear the burden of proving, by clear and  
7 convincing evidence, that no condition or combination of  
8 conditions of release would reasonably ensure the appearance  
9 of the defendant for later hearings or prevent the defendant  
10 from being charged with a subsequent felony or Class A  
11 misdemeanor.

12 In lieu of revocation, the court may release the defendant  
13 pre-trial, with or without modification of conditions of  
14 pretrial release.

15 If the case that caused the revocation is dismissed, the  
16 defendant is found not guilty in the case causing the  
17 revocation, or the defendant completes a lawfully imposed  
18 sentence on the case causing the revocation, the court shall,  
19 without unnecessary delay, hold a hearing on conditions of  
20 pretrial release pursuant to Section 110-5 and release the  
21 defendant with or without modification of conditions of  
22 pretrial release.

23 Both the State and the defendant may appeal an order  
24 revoking pretrial release or denying a petition for revocation  
25 of release.

26 (b) If a defendant previously has been granted pretrial

1 release under this Section for a Class B or Class C misdemeanor  
2 offense, a petty or business offense, or an ordinance  
3 violation and if the defendant is subsequently charged with a  
4 felony that is alleged to have occurred during the defendant's  
5 pretrial release or a Class A misdemeanor offense that is  
6 alleged to have occurred during the defendant's pretrial  
7 release, such pretrial release may not be revoked, but the  
8 court may impose sanctions under subsection (c).

9 (c) The court shall follow the procedures set forth in  
10 Section 110-3 to ensure the defendant's appearance in court if  
11 the defendant:

12 (1) fails to appear in court as required by the  
13 defendant's conditions of release;

14 (2) is charged with a felony or Class A misdemeanor  
15 offense that is alleged to have occurred during the  
16 defendant's pretrial release after having been previously  
17 granted pretrial release for a Class B or Class C  
18 misdemeanor, a petty or business offense, or an ordinance  
19 violation that is alleged to have occurred during the  
20 defendant's pretrial release;

21 (3) is charged with a Class B or C misdemeanor  
22 offense, petty or business offense, or ordinance violation  
23 that is alleged to have occurred during the defendant's  
24 pretrial release; or

25 (4) violates any other condition of pretrial release  
26 set by the court.

1           In response to a violation described in this subsection,  
2           the court may issue a warrant specifying that the defendant  
3           must appear before the court for a hearing for sanctions and  
4           may not be released by law enforcement before that appearance.

5           (d) When a defendant appears in court pursuant to a  
6           summons or warrant issued in accordance with Section 110-3 or  
7           after being arrested for an offense that is alleged to have  
8           occurred during the defendant's pretrial release, the State  
9           may file a verified petition requesting a hearing for  
10          sanctions.

11          (e) During the hearing for sanctions, the defendant shall  
12          be represented by counsel and have an opportunity to be heard  
13          regarding the violation and evidence in mitigation. The State  
14          shall bear the burden of proving by clear and convincing  
15          evidence that:

16                 (1) the defendant committed an act that violated a  
17                 term of the defendant's pretrial release;

18                 (2) the defendant had actual knowledge that the  
19                 defendant's action would violate a court order;

20                 (3) the violation of the court order was willful; and

21                 (4) the violation was not caused by a lack of access to  
22                 financial monetary resources.

23          (f) Sanctions for violations of pretrial release may  
24          include:

25                 (1) a verbal or written admonishment from the court;

26                 (2) imprisonment in the county jail for a period not

1 exceeding 30 days;

2 (3) (Blank); or

3 (4) a modification of the defendant's pretrial  
4 conditions.

5 (g) The court may, at any time, after motion by either  
6 party or on its own motion, remove previously set conditions  
7 of pretrial release, subject to the provisions in this  
8 subsection. The court may only add or increase conditions of  
9 pretrial release at a hearing under this Section.

10 The court shall not remove a previously set condition of  
11 pretrial release regulating contact with a victim or witness  
12 in the case, unless the subject of the condition has been given  
13 notice of the hearing as required in paragraph (1) of  
14 subsection (b) of Section 4.5 of the Rights of Crime Victims  
15 and Witnesses Act. If the subject of the condition of release  
16 is not present, the court shall follow the procedures of  
17 paragraph (10) of subsection (c-1) of the Rights of Crime  
18 Victims and Witnesses Act.

19 (h) Crime victims shall be given notice by the State's  
20 Attorney's office of all hearings under this Section as  
21 required in paragraph (1) of subsection (b) of Section 4.5 of  
22 the Rights of Crime Victims and Witnesses Act and shall be  
23 informed of their opportunity at these hearings to obtain a  
24 protective order.

25 (i) Nothing in this Section shall be construed to limit  
26 the State's ability to file a verified petition seeking denial

1 of pretrial release under subsection (a) of Section 110-6.1 or  
2 subdivision (d) (2) of Section 110-6.1.

3 (j) At each subsequent appearance of the defendant before  
4 the court, the judge must find that continued detention under  
5 this Section is necessary to reasonably ensure the appearance  
6 of the defendant for later hearings or to prevent the  
7 defendant from being charged with a subsequent felony or Class  
8 A misdemeanor.

9 (k) Upon petition of the State's Attorney of a county  
10 prosecuting a defendant on pretrial release or upon motion of  
11 the court, the court may revoke or impose sanctions on a  
12 defendant who is released on pretrial release if the defendant  
13 has violated any of the conditions of pretrial release.

14 (Source: P.A. 101-652, eff. 1-1-23; 102-1104, eff. 1-1-23.)