



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5124

Introduced 2/8/2024, by Rep. Dennis Tipsword, Jr. - John M. Cabello and Dave Severin

SYNOPSIS AS INTRODUCED:

725 ILCS 5/109-2

from Ch. 38, par. 109-2

Amends the Code of Criminal Procedure of 1963. Provides that if a person has a warrant in another county for an offense, then, no later than 5 calendar days after the end of any detention issued on the charge in the arresting county, the county where the warrant is issued shall arrange for the transport of the person to the county where the warrant was issued for a pretrial release hearing (rather than the county where the warrant is outstanding shall do one of the following: (1) transport the person to the county where the warrant was issued; or (2) quash the warrant and order the person released on the case for which the warrant was issued only when the county that issued the warrant fails to transport the defendant in the timeline as proscribed). Provides that the arresting county is not required to transport the person to the county that issued the warrant.

LRB103 35874 RLC 65959 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 109-2 as follows:

6 (725 ILCS 5/109-2) (from Ch. 38, par. 109-2)

7 Sec. 109-2. Person arrested in another county.

8 (a) Any person arrested in a county other than the one in
9 which a warrant for his arrest was issued shall be taken
10 without unnecessary delay before the nearest and most
11 accessible judge in the county where the arrest was made or, if
12 no additional delay is created, before the nearest and most
13 accessible judge in the county from which the warrant was
14 issued. The judge may hold a hearing to determine if the
15 defendant is the same person as named in the warrant.

16 (b) Notwithstanding the provisions of subsection (a), any
17 person arrested in a county other than the one in which a
18 warrant for his arrest was issued, may waive the right to be
19 taken before a judge in the county where the arrest was made.
20 If a person so arrested waives such right, the arresting
21 agency shall surrender such person to a law enforcement agency
22 of the county that issued the warrant without unnecessary
23 delay. The provisions of Section 109-1 shall then apply to the

1 person so arrested.

2 (c) If a person is taken before a judge in any county and a
3 warrant for arrest issued by another Illinois county exists
4 for that person, the court in the arresting county shall hold
5 for that person a detention hearing under Section 110-6.1, or
6 other hearing under Section 110-5 or Section 110-6.

7 (d) After the court in the arresting county has determined
8 whether the person shall be released or detained on the
9 arresting offense, the court shall then order the sheriff to
10 immediately contact the sheriff in any county where any
11 warrant is outstanding and notify them of the arrest of the
12 individual.

13 (e) If a person has a warrant in another county for an
14 offense, then, no later than 5 calendar days after the end of
15 any detention issued on the charge in the arresting county,
16 the county where the warrant is issued ~~outstanding~~ shall
17 arrange for the transport of the person to the county where the
18 warrant was issued for a hearing under Section 110-6 or
19 110-6.1 in the matter for which the warrant was issued. ~~do one~~
20 ~~of the following:~~

21 ~~(1) transport the person to the county where the~~
22 ~~warrant was issued for a hearing under Section 110-6 or~~
23 ~~110-6.1 in the matter for which the warrant was issued; or~~
24 The arresting county shall ~~(2)~~ quash the warrant and order
25 the person released on the case for which the warrant was
26 issued only when the county that issued the warrant fails to

1 transport the defendant in the timeline as proscribed in this
2 subsection (e).

3 The arresting county is not required to transport the
4 person to the county that issued the warrant.

5 (f) If the issuing county fails to take any action under
6 subsection (e) within 5 calendar days, the defendant shall be
7 released from custody on the warrant, and the circuit judge or
8 associate circuit judge in the county of arrest shall set
9 conditions of release under Section 110-5 and shall admit the
10 defendant to pretrial release for his or her appearance before
11 the court named in the warrant. Upon releasing the defendant,
12 the circuit judge or associate circuit judge shall certify
13 such a fact on the warrant and deliver the warrant and the
14 acknowledgment by the defendant of his or her receiving the
15 conditions of pretrial release to the officer having charge of
16 the defendant from arrest and without delay deliver such
17 warrant and such acknowledgment by the defendant of his or her
18 receiving the conditions to the court before which the
19 defendant is required to appear.

20 (g) If a person has a warrant in another county, in lieu of
21 transporting the person to the issuing county as outlined in
22 subsection (e), the issuing county may hold the hearing by way
23 of a two-way audio-visual communication system if the accused
24 waives the right to be physically present in court, the court
25 determines that the physical health and safety of any person
26 necessary to the proceedings would be endangered by appearing

1 in court, or the chief judge of the circuit orders use of that
2 system due to operational challenges in conducting the hearing
3 in person. Such operational challenges must be documented and
4 approved by the chief judge of the circuit, and a plan to
5 address the challenges through reasonable efforts must be
6 presented and approved by the Administrative Office of the
7 Illinois Courts every 6 months.

8 (h) If more than 2 Illinois county warrants exist, the
9 judge in the county of arrest shall order that the process
10 described in subsections (d) through (f) occur in each county
11 in whatever order the judge finds most appropriate. Each judge
12 in each subsequent county shall then follow the rules in this
13 Section.

14 (i) This Section applies only to warrants issued by
15 Illinois state, county, or municipal courts.

16 (j) When an issuing agency is contacted by an out-of-state
17 agency of a person arrested for any offense, or when an
18 arresting agency is contacted by or contacts an out-of-state
19 issuing agency, the Uniform Criminal Extradition Act shall
20 govern.

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