



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5126

Introduced 2/8/2024, by Rep. Patrick Windhorst - Amy L. Grant
- Dan Ugaste and Dave Severin

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-3

from Ch. 38, par. 110-3

Amends the Criminal Code of 2012. Provides that upon failure to comply with any condition of pretrial release, the court having jurisdiction at the time of such failure may, on its own motion or upon motion from the State, issue a warrant (instead of a summons or a warrant) for the arrest of the person on pretrial release (instead of at liberty on pretrial release). Provides that the contents of such a warrant shall be the same as required for an arrest warrant issued upon complaint. Provides that when a defendant is on pretrial release on a felony charge and fails to appear in court as directed, the court shall issue a warrant for the arrest of such person. Provides that such warrant shall be noted with a directive to peace officers to arrest the person and hold such person without bail and to deliver such person before the court for further proceedings. Provides that a defendant who is arrested or surrenders within 30 days of the issuance of such warrant shall not be released on pretrial conditions in the case in question unless the defendant shows by the preponderance of the evidence that the defendant's failure to appear was not intentional. Makes conforming changes. Removes provisions concerning that for the purpose of any risk assessment or future evaluation of risk of willful flight or risk of failure to appear, a nonappearance in court cured by an appearance in response to a summons shall not be considered as evidence of future likelihood of appearance in court.

LRB103 39429 RLC 69618 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 110-3 as follows:

6 (725 ILCS 5/110-3) (from Ch. 38, par. 110-3)

7 Sec. 110-3. Arrest warrant for person on pretrial release
8 ~~Options for warrant alternatives.~~

9 (a) Upon failure to comply with any condition of pretrial
10 release, the court having jurisdiction at the time of such
11 failure may, on its own motion or upon motion from the State,
12 issue ~~a summons or~~ a warrant for the arrest of the person ~~at~~
13 ~~liberty~~ on pretrial release. The contents of such a warrant
14 shall be the same as required for an arrest warrant issued upon
15 complaint. When a defendant is on pretrial release on a felony
16 charge and fails to appear in court as directed, the court
17 shall issue a warrant for the arrest of such person. Such
18 warrant shall be noted with a directive to peace officers to
19 arrest the person and hold such person without bail and to
20 deliver such person before the court for further proceedings.
21 A defendant who is arrested or surrenders within 30 days of the
22 issuance of such warrant shall not be released on pretrial
23 conditions in the case in question unless the defendant shows

1 by the preponderance of the evidence that the defendant's
2 failure to appear was not intentional. ~~This Section shall be~~
3 ~~construed to effectuate the goal of relying upon summonses~~
4 ~~rather than warrants to ensure the appearance of the defendant~~
5 ~~in court whenever possible. The contents of such a summons or~~
6 ~~warrant shall be the same as required for those issued upon~~
7 ~~complaint under Section 107-9.~~

8 (b) (Blank) ~~A defendant who appears in court on the date~~
9 ~~assigned or within 48 hours of service, whichever is later, in~~
10 ~~response to a summons issued for failure to appear in court,~~
11 ~~shall not be recorded in the official docket as having failed~~
12 ~~to appear on the initial missed court date. If a person fails~~
13 ~~to appear in court on the date listed on the summons, the court~~
14 ~~may issue a warrant for the person's arrest.~~

15 (c) (Blank) ~~For the purpose of any risk assessment or~~
16 ~~future evaluation of risk of willful flight or risk of failure~~
17 ~~to appear, a nonappearance in court cured by an appearance in~~
18 ~~response to a summons shall not be considered as evidence of~~
19 ~~future likelihood of appearance in court.~~

20 (Source: P.A. 101-652, eff. 1-1-23; 102-813, eff. 5-13-22;
21 102-1104, eff. 1-1-23.)