



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB4893**

Introduced 1/19/2006, by Rep. Robert Rita

**SYNOPSIS AS INTRODUCED:**

725 ILCS 5/110-6

from Ch. 38, par. 110-6

Amends the Code of Criminal Procedure of 1963. Provides that the court may not grant bail for an offense committed while the defendant is on bail for first degree murder or attempted first degree murder and shall revoke bail previously granted to the defendant if the defendant has been released on bail for the offense of first degree murder or attempted first degree murder and has failed to appear to answer the charge or charges for first degree murder or attempted first degree murder in the court having jurisdiction on a day certain and thereafter as ordered by the court until discharged or final order of the court.

LRB094 15755 RLC 50968 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. (a) Upon verified application by the State or  
8 the defendant or on its own motion the court before which the  
9 proceeding is pending may increase or reduce the amount of bail  
10 or may alter the conditions of the bail bond or grant bail  
11 where it has been previously revoked or denied. If bail has  
12 been previously revoked pursuant to subsection (f) of this  
13 Section or if bail has been denied to the defendant pursuant to  
14 subsection (e) of Section 110-6.1 or subsection (e) of Section  
15 110-6.3, the defendant shall be required to present a verified  
16 application setting forth in detail any new facts not known or  
17 obtainable at the time of the previous revocation or denial of  
18 bail proceedings. If the court grants bail where it has been  
19 previously revoked or denied, the court shall state on the  
20 record of the proceedings the findings of facts and conclusion  
21 of law upon which such order is based.

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

32 (c) Reasonable notice of such application by the defendant

1 shall be given to the State.

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

5 (e) Upon verified application by the State stating facts or  
6 circumstances constituting a violation or a threatened  
7 violation of any of the conditions of the bail bond the court  
8 may issue a warrant commanding any peace officer to bring the  
9 defendant without unnecessary delay before the court for a  
10 hearing on the matters set forth in the application. If the  
11 actual court before which the proceeding is pending is absent  
12 or otherwise unavailable another court may issue a warrant  
13 pursuant to this Section. When the defendant is charged with a  
14 felony offense and while free on bail is charged with a  
15 subsequent felony offense and is the subject of a proceeding  
16 set forth in Section 109-1 or 109-3 of this Code, upon the  
17 filing of a verified petition by the State alleging a violation  
18 of Section 110-10 (a) (4) of this Code, the court shall without  
19 prior notice to the defendant, grant leave to file such  
20 application and shall order the transfer of the defendant and  
21 the application without unnecessary delay to the court before  
22 which the previous felony matter is pending for a hearing as  
23 provided in subsection (b) or this subsection of this Section.  
24 The defendant shall be held without bond pending transfer to  
25 and a hearing before such court. At the conclusion of the  
26 hearing based on a violation of the conditions of Section  
27 110-10 of this Code or any special conditions of bail as  
28 ordered by the court the court may enter an order increasing  
29 the amount of bail or alter the conditions of bail as deemed  
30 appropriate.

31 (f) Where the alleged violation consists of the violation  
32 of one or more felony statutes of any jurisdiction which would  
33 be a forcible felony in Illinois or a Class 2 or greater  
34 offense under the Illinois Controlled Substances Act, the  
35 Cannabis Control Act, or the Methamphetamine Control and  
36 Community Protection Act and the defendant is on bail for the

1 alleged commission of a felony, or where the defendant is on  
2 bail for a felony domestic battery (enhanced pursuant to  
3 subsection (b) of Section 12-3.2 of the Criminal Code of 1961),  
4 aggravated domestic battery, aggravated battery, unlawful  
5 restraint, aggravated unlawful restraint or domestic battery  
6 in violation of item (1) of subsection (a) of Section 12-3.2 of  
7 the Criminal Code of 1961 against a family or household member  
8 as defined in Section 112A-3 of this Code and the violation is  
9 an offense of domestic battery against the same victim the  
10 court shall, on the motion of the State or its own motion,  
11 revoke bail in accordance with the following provisions:

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

27 (2) At a hearing on the alleged violation the State has  
28 the burden of going forward and proving the violation by  
29 clear and convincing evidence. The evidence shall be  
30 presented in open court with the opportunity to testify, to  
31 present witnesses in his behalf, and to cross-examine  
32 witnesses if any are called by the State, and  
33 representation by counsel and if the defendant is indigent  
34 to have counsel appointed for him. The rules of evidence  
35 applicable in criminal trials in this State shall not  
36 govern the admissibility of evidence at such hearing.

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

13 (3) Upon a finding by the court that the State has  
14 established by clear and convincing evidence that the  
15 defendant has committed a forcible felony or a Class 2 or  
16 greater offense under the Illinois Controlled Substances  
17 Act, the Cannabis Control Act, or the Methamphetamine  
18 Control and Community Protection Act while admitted to  
19 bail, or where the defendant is on bail for a felony  
20 domestic battery (enhanced pursuant to subsection (b) of  
21 Section 12-3.2 of the Criminal Code of 1961), aggravated  
22 domestic battery, aggravated battery, unlawful restraint,  
23 aggravated unlawful restraint or domestic battery in  
24 violation of item (1) of subsection (a) of Section 12-3.2  
25 of the Criminal Code of 1961 against a family or household  
26 member as defined in Section 112A-3 of this Code and the  
27 violation is an offense of domestic battery, against the  
28 same victim, the court shall revoke the bail of the  
29 defendant and hold the defendant for trial without bail.  
30 Neither the finding of the court nor any transcript or  
31 other record of the hearing shall be admissible in the  
32 State's case in chief, but shall be admissible for  
33 impeachment, or as provided in Section 115-10.1 of this  
34 Code or in a perjury proceeding.

35 (4) If the bail of any defendant is revoked pursuant to  
36 paragraph (f) (3) of this Section, the defendant may demand

1 and shall be entitled to be brought to trial on the offense  
2 with respect to which he was formerly released on bail  
3 within 90 days after the date on which his bail was  
4 revoked. If the defendant is not brought to trial within  
5 the 90 day period required by the preceding sentence, he  
6 shall not be held longer without bail. In computing the 90  
7 day period, the court shall omit any period of delay  
8 resulting from a continuance granted at the request of the  
9 defendant.

10 (5) If the defendant either is arrested on a warrant  
11 issued pursuant to this Code or is arrested for an  
12 unrelated offense and it is subsequently discovered that  
13 the defendant is a subject of another warrant or warrants  
14 issued pursuant to this Code, the defendant shall be  
15 transferred promptly to the court which issued such  
16 warrant. If, however, the defendant appears initially  
17 before a court other than the court which issued such  
18 warrant, the non-issuing court shall not alter the amount  
19 of bail heretofore set on such warrant unless the court  
20 sets forth on the record of proceedings the conclusions of  
21 law and facts which are the basis for such altering of  
22 another court's bond. The non-issuing court shall not alter  
23 another courts bail set on a warrant unless the interests  
24 of justice and public safety are served by such action.

25 (f-5) The court may not grant bail for an offense committed  
26 while the defendant is on bail for first degree murder or  
27 attempted first degree murder and shall revoke bail previously  
28 granted to the defendant if the defendant has been released on  
29 bail for the offense of first degree murder or attempted first  
30 degree murder and has failed to appear to answer the charge or  
31 charges for first degree murder or attempted first degree  
32 murder in the court having jurisdiction on a day certain and  
33 thereafter as ordered by the court until discharged or final  
34 order of the court.

35 (g) The State may appeal any order where the court has  
36 increased or reduced the amount of bail or altered the

1 conditions of the bail bond or granted bail where it has  
2 previously been revoked.

3 (Source: P.A. 93-417, eff. 8-5-03; 94-556, eff. 9-11-05.)