



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5869

Introduced 11/30/06, 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 22040 RLC 60605 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.)