

HB1272



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1272

Introduced 02/08/11, by Rep. Karen May

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-10

from Ch. 38, par. 110-10

Amends the Code of Criminal Procedure of 1963. Provides that when a person is released prior to conviction (by bail payment or recognizance) and submits his or her FOID card to the clerk of the circuit court, the circuit court clerk shall mail the confiscated card to the Illinois State Police.

LRB097 02843 RLC 42865 b

A BILL FOR

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 110-10 as follows:

6 (725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

7 Sec. 110-10. Conditions of bail bond.

8 (a) If a person is released prior to conviction, either
9 upon payment of bail security or on his or her own
10 recognizance, the conditions of the bail bond shall be that he
11 or she will:

12 (1) Appear to answer the charge in the court having
13 jurisdiction on a day certain and thereafter as ordered by
14 the court until discharged or final order of the court;

15 (2) Submit himself or herself to the orders and process
16 of the court;

17 (3) Not depart this State without leave of the court;

18 (4) Not violate any criminal statute of any
19 jurisdiction;

20 (5) At a time and place designated by the court,
21 surrender all firearms in his or her possession to a law
22 enforcement officer designated by the court to take custody
23 of and impound the firearms and physically surrender his or

1 her Firearm Owner's Identification Card to the clerk of the
2 circuit court when the offense the person has been charged
3 with is a forcible felony, stalking, aggravated stalking,
4 domestic battery, any violation of the Illinois Controlled
5 Substances Act, the Methamphetamine Control and Community
6 Protection Act, or the Cannabis Control Act that is
7 classified as a Class 2 or greater felony, or any felony
8 violation of Article 24 of the Criminal Code of 1961; the
9 court may, however, forgo the imposition of this condition
10 when the circumstances of the case clearly do not warrant
11 it or when its imposition would be impractical; if the
12 Firearm Owner's Identification Card is confiscated, the
13 clerk of the circuit court shall mail the confiscated card
14 to the Illinois State Police; all legally possessed
15 firearms shall be returned to the person upon the charges
16 being dismissed, or if the person is found not guilty,
17 unless the finding of not guilty is by reason of insanity;
18 and

19 (6) At a time and place designated by the court, submit
20 to a psychological evaluation when the person has been
21 charged with a violation of item (4) of subsection (a) of
22 Section 24-1 of the Criminal Code of 1961 and that
23 violation occurred in a school or in any conveyance owned,
24 leased, or contracted by a school to transport students to
25 or from school or a school-related activity, or on any
26 public way within 1,000 feet of real property comprising

1 any school.

2 Psychological evaluations ordered pursuant to this Section
3 shall be completed promptly and made available to the State,
4 the defendant, and the court. As a further condition of bail
5 under these circumstances, the court shall order the defendant
6 to refrain from entering upon the property of the school,
7 including any conveyance owned, leased, or contracted by a
8 school to transport students to or from school or a
9 school-related activity, or on any public way within 1,000 feet
10 of real property comprising any school. Upon receipt of the
11 psychological evaluation, either the State or the defendant may
12 request a change in the conditions of bail, pursuant to Section
13 110-6 of this Code. The court may change the conditions of bail
14 to include a requirement that the defendant follow the
15 recommendations of the psychological evaluation, including
16 undergoing psychiatric treatment. The conclusions of the
17 psychological evaluation and any statements elicited from the
18 defendant during its administration are not admissible as
19 evidence of guilt during the course of any trial on the charged
20 offense, unless the defendant places his or her mental
21 competency in issue.

22 (b) The court may impose other conditions, such as the
23 following, if the court finds that such conditions are
24 reasonably necessary to assure the defendant's appearance in
25 court, protect the public from the defendant, or prevent the
26 defendant's unlawful interference with the orderly

1 administration of justice:

2 (1) Report to or appear in person before such person or
3 agency as the court may direct;

4 (2) Refrain from possessing a firearm or other
5 dangerous weapon;

6 (3) Refrain from approaching or communicating with
7 particular persons or classes of persons;

8 (4) Refrain from going to certain described
9 geographical areas or premises;

10 (5) Refrain from engaging in certain activities or
11 indulging in intoxicating liquors or in certain drugs;

12 (6) Undergo treatment for drug addiction or
13 alcoholism;

14 (7) Undergo medical or psychiatric treatment;

15 (8) Work or pursue a course of study or vocational
16 training;

17 (9) Attend or reside in a facility designated by the
18 court;

19 (10) Support his or her dependents;

20 (11) If a minor resides with his or her parents or in a
21 foster home, attend school, attend a non-residential
22 program for youths, and contribute to his or her own
23 support at home or in a foster home;

24 (12) Observe any curfew ordered by the court;

25 (13) Remain in the custody of such designated person or
26 organization agreeing to supervise his release. Such third

1 party custodian shall be responsible for notifying the
2 court if the defendant fails to observe the conditions of
3 release which the custodian has agreed to monitor, and
4 shall be subject to contempt of court for failure so to
5 notify the court;

6 (14) Be placed under direct supervision of the Pretrial
7 Services Agency, Probation Department or Court Services
8 Department in a pretrial bond home supervision capacity
9 with or without the use of an approved electronic
10 monitoring device subject to Article 8A of Chapter V of the
11 Unified Code of Corrections;

12 (14.1) The court shall impose upon a defendant who is
13 charged with any alcohol, cannabis, methamphetamine, or
14 controlled substance violation and is placed under direct
15 supervision of the Pretrial Services Agency, Probation
16 Department or Court Services Department in a pretrial bond
17 home supervision capacity with the use of an approved
18 monitoring device, as a condition of such bail bond, a fee
19 that represents costs incidental to the electronic
20 monitoring for each day of such bail supervision ordered by
21 the court, unless after determining the inability of the
22 defendant to pay the fee, the court assesses a lesser fee
23 or no fee as the case may be. The fee shall be collected by
24 the clerk of the circuit court. The clerk of the circuit
25 court shall pay all monies collected from this fee to the
26 county treasurer for deposit in the substance abuse

1 services fund under Section 5-1086.1 of the Counties Code;

2 (14.2) The court shall impose upon all defendants,
3 including those defendants subject to paragraph (14.1)
4 above, placed under direct supervision of the Pretrial
5 Services Agency, Probation Department or Court Services
6 Department in a pretrial bond home supervision capacity
7 with the use of an approved monitoring device, as a
8 condition of such bail bond, a fee which shall represent
9 costs incidental to such electronic monitoring for each day
10 of such bail supervision ordered by the court, unless after
11 determining the inability of the defendant to pay the fee,
12 the court assesses a lesser fee or no fee as the case may
13 be. The fee shall be collected by the clerk of the circuit
14 court. The clerk of the circuit court shall pay all monies
15 collected from this fee to the county treasurer who shall
16 use the monies collected to defray the costs of
17 corrections. The county treasurer shall deposit the fee
18 collected in the county working cash fund under Section
19 6-27001 or Section 6-29002 of the Counties Code, as the
20 case may be;

21 (14.3) The Chief Judge of the Judicial Circuit may
22 establish reasonable fees to be paid by a person receiving
23 pretrial services while under supervision of a pretrial
24 services agency, probation department, or court services
25 department. Reasonable fees may be charged for pretrial
26 services including, but not limited to, pretrial

1 supervision, diversion programs, electronic monitoring,
2 victim impact services, drug and alcohol testing, DNA
3 testing, GPS electronic monitoring, assessments and
4 evaluations related to domestic violence and other
5 victims, and victim mediation services. The person
6 receiving pretrial services may be ordered to pay all costs
7 incidental to pretrial services in accordance with his or
8 her ability to pay those costs;

9 (14.4) For persons charged with violating Section
10 11-501 of the Illinois Vehicle Code, refrain from operating
11 a motor vehicle not equipped with an ignition interlock
12 device, as defined in Section 1-129.1 of the Illinois
13 Vehicle Code, pursuant to the rules promulgated by the
14 Secretary of State for the installation of ignition
15 interlock devices. Under this condition the court may allow
16 a defendant who is not self-employed to operate a vehicle
17 owned by the defendant's employer that is not equipped with
18 an ignition interlock device in the course and scope of the
19 defendant's employment;

20 (15) Comply with the terms and conditions of an order
21 of protection issued by the court under the Illinois
22 Domestic Violence Act of 1986 or an order of protection
23 issued by the court of another state, tribe, or United
24 States territory;

25 (16) Under Section 110-6.5 comply with the conditions
26 of the drug testing program; and

1 (17) Such other reasonable conditions as the court may
2 impose.

3 (c) When a person is charged with an offense under Section
4 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of
5 1961", involving a victim who is a minor under 18 years of age
6 living in the same household with the defendant at the time of
7 the offense, in granting bail or releasing the defendant on his
8 own recognizance, the judge shall impose conditions to restrict
9 the defendant's access to the victim which may include, but are
10 not limited to conditions that he will:

- 11 1. Vacate the Household.
- 12 2. Make payment of temporary support to his dependents.
- 13 3. Refrain from contact or communication with the child
14 victim, except as ordered by the court.

15 (d) When a person is charged with a criminal offense and
16 the victim is a family or household member as defined in
17 Article 112A, conditions shall be imposed at the time of the
18 defendant's release on bond that restrict the defendant's
19 access to the victim. Unless provided otherwise by the court,
20 the restrictions shall include requirements that the defendant
21 do the following:

- 22 (1) refrain from contact or communication with the
23 victim for a minimum period of 72 hours following the
24 defendant's release; and

- 25 (2) refrain from entering or remaining at the victim's
26 residence for a minimum period of 72 hours following the

1 defendant's release.

2 (e) Local law enforcement agencies shall develop
3 standardized bond forms for use in cases involving family or
4 household members as defined in Article 112A, including
5 specific conditions of bond as provided in subsection (d).
6 Failure of any law enforcement department to develop or use
7 those forms shall in no way limit the applicability and
8 enforcement of subsections (d) and (f).

9 (f) If the defendant is admitted to bail after conviction
10 the conditions of the bail bond shall be that he will, in
11 addition to the conditions set forth in subsections (a) and (b)
12 hereof:

13 (1) Duly prosecute his appeal;

14 (2) Appear at such time and place as the court may
15 direct;

16 (3) Not depart this State without leave of the court;

17 (4) Comply with such other reasonable conditions as the
18 court may impose; and

19 (5) If the judgment is affirmed or the cause reversed
20 and remanded for a new trial, forthwith surrender to the
21 officer from whose custody he was bailed.

22 (g) Upon a finding of guilty for any felony offense, the
23 defendant shall physically surrender, at a time and place
24 designated by the court, any and all firearms in his or her
25 possession and his or her Firearm Owner's Identification Card
26 as a condition of remaining on bond pending sentencing.

1 (Source: P.A. 95-331, eff. 8-21-07; 96-340, eff. 8-11-09.)