

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 Sections 110-5 and 110-10 and by adding
6 Section 112A-32 as follows:

7 (725 ILCS 5/110-5) (from Ch. 38, par. 110-5)

8 Sec. 110-5. Determining the amount of bail and conditions
9 of release.

10 (a) In determining the amount of monetary bail or
11 conditions of release, if any, which will reasonably assure the
12 appearance of a defendant as required or the safety of any
13 other person or the community and the likelihood of compliance
14 by the defendant with all the conditions of bail, the court
15 shall, on the basis of available information, take into account
16 such matters as the nature and circumstances of the offense
17 charged, whether the evidence shows that as part of the offense
18 there was a use of violence or threatened use of violence,
19 whether the offense involved corruption of public officials or
20 employees, whether there was physical harm or threats of
21 physical harm to any public official, public employee, judge,
22 prosecutor, juror or witness, senior citizen, child or
23 handicapped person, whether evidence shows that during the

1 offense or during the arrest the defendant possessed or used a
2 firearm, machine gun, explosive or metal piercing ammunition or
3 explosive bomb device or any military or paramilitary armament,
4 whether the evidence shows that the offense committed was
5 related to or in furtherance of the criminal activities of an
6 organized gang or was motivated by the defendant's membership
7 in or allegiance to an organized gang, the condition of the
8 victim, any written statement submitted by the victim or
9 proffer or representation by the State regarding the impact
10 which the alleged criminal conduct has had on the victim and
11 the victim's concern, if any, with further contact with the
12 defendant if released on bail, whether the offense was based on
13 racial, religious, sexual orientation or ethnic hatred, the
14 likelihood of the filing of a greater charge, the likelihood of
15 conviction, the sentence applicable upon conviction, the
16 weight of the evidence against such defendant, whether there
17 exists motivation or ability to flee, whether there is any
18 verification as to prior residence, education, or family ties
19 in the local jurisdiction, in another county, state or foreign
20 country, the defendant's employment, financial resources,
21 character and mental condition, past conduct, prior use of
22 alias names or dates of birth, and length of residence in the
23 community, the consent of the defendant to periodic drug
24 testing in accordance with Section 110-6.5, whether a foreign
25 national defendant is lawfully admitted in the United States of
26 America, whether the government of the foreign national

1 maintains an extradition treaty with the United States by which
2 the foreign government will extradite to the United States its
3 national for a trial for a crime allegedly committed in the
4 United States, whether the defendant is currently subject to
5 deportation or exclusion under the immigration laws of the
6 United States, whether the defendant, although a United States
7 citizen, is considered under the law of any foreign state a
8 national of that state for the purposes of extradition or
9 non-extradition to the United States, the amount of unrecovered
10 proceeds lost as a result of the alleged offense, the source of
11 bail funds tendered or sought to be tendered for bail, whether
12 from the totality of the court's consideration, the loss of
13 funds posted or sought to be posted for bail will not deter the
14 defendant from flight, whether the evidence shows that the
15 defendant is engaged in significant possession, manufacture,
16 or delivery of a controlled substance or cannabis, either
17 individually or in consort with others, whether at the time of
18 the offense charged he or she was on bond or pre-trial release
19 pending trial, probation, periodic imprisonment or conditional
20 discharge pursuant to this Code or the comparable Code of any
21 other state or federal jurisdiction, whether the defendant is
22 on bond or pre-trial release pending the imposition or
23 execution of sentence or appeal of sentence for any offense
24 under the laws of Illinois or any other state or federal
25 jurisdiction, whether the defendant is under parole, aftercare
26 release, mandatory supervised release, or work release from the

1 Illinois Department of Corrections or Illinois Department of
2 Juvenile Justice or any penal institution or corrections
3 department of any state or federal jurisdiction, the
4 defendant's record of convictions, whether the defendant has
5 been convicted of a misdemeanor or ordinance offense in
6 Illinois or similar offense in other state or federal
7 jurisdiction within the 10 years preceding the current charge
8 or convicted of a felony in Illinois, whether the defendant was
9 convicted of an offense in another state or federal
10 jurisdiction that would be a felony if committed in Illinois
11 within the 20 years preceding the current charge or has been
12 convicted of such felony and released from the penitentiary
13 within 20 years preceding the current charge if a penitentiary
14 sentence was imposed in Illinois or other state or federal
15 jurisdiction, the defendant's records of juvenile adjudication
16 of delinquency in any jurisdiction, any record of appearance or
17 failure to appear by the defendant at court proceedings,
18 whether there was flight to avoid arrest or prosecution,
19 whether the defendant escaped or attempted to escape to avoid
20 arrest, whether the defendant refused to identify himself or
21 herself, or whether there was a refusal by the defendant to be
22 fingerprinted as required by law. Information used by the court
23 in its findings or stated in or offered in connection with this
24 Section may be by way of proffer based upon reliable
25 information offered by the State or defendant. All evidence
26 shall be admissible if it is relevant and reliable regardless

1 of whether it would be admissible under the rules of evidence
2 applicable at criminal trials. If the State presents evidence
3 that the offense committed by the defendant was related to or
4 in furtherance of the criminal activities of an organized gang
5 or was motivated by the defendant's membership in or allegiance
6 to an organized gang, and if the court determines that the
7 evidence may be substantiated, the court shall prohibit the
8 defendant from associating with other members of the organized
9 gang as a condition of bail or release. For the purposes of
10 this Section, "organized gang" has the meaning ascribed to it
11 in Section 10 of the Illinois Streetgang Terrorism Omnibus
12 Prevention Act.

13 (b) The amount of bail shall be:

14 (1) Sufficient to assure compliance with the
15 conditions set forth in the bail bond, which shall include
16 the defendant's current address with a written
17 admonishment to the defendant that he or she must comply
18 with the provisions of Section 110-12 regarding any change
19 in his or her address. The defendant's address shall at all
20 times remain a matter of public record with the clerk of
21 the court.

22 (2) Not oppressive.

23 (3) Considerate of the financial ability of the
24 accused.

25 (4) When a person is charged with a drug related
26 offense involving possession or delivery of cannabis or

1 possession or delivery of a controlled substance as defined
2 in the Cannabis Control Act, the Illinois Controlled
3 Substances Act, or the Methamphetamine Control and
4 Community Protection Act, the full street value of the
5 drugs seized shall be considered. "Street value" shall be
6 determined by the court on the basis of a proffer by the
7 State based upon reliable information of a law enforcement
8 official contained in a written report as to the amount
9 seized and such proffer may be used by the court as to the
10 current street value of the smallest unit of the drug
11 seized.

12 (b-5) Upon the filing of a written request demonstrating
13 reasonable cause, the State's Attorney may request a source of
14 bail hearing either before or after the posting of any funds.
15 If the hearing is granted, before the posting of any bail, the
16 accused must file a written notice requesting that the court
17 conduct a source of bail hearing. The notice must be
18 accompanied by justifying affidavits stating the legitimate
19 and lawful source of funds for bail. At the hearing, the court
20 shall inquire into any matters stated in any justifying
21 affidavits, and may also inquire into matters appropriate to
22 the determination which shall include, but are not limited to,
23 the following:

24 (1) the background, character, reputation, and
25 relationship to the accused of any surety; and

26 (2) the source of any money or property deposited by

1 any surety, and whether any such money or property
2 constitutes the fruits of criminal or unlawful conduct; and

3 (3) the source of any money posted as cash bail, and
4 whether any such money constitutes the fruits of criminal
5 or unlawful conduct; and

6 (4) the background, character, reputation, and
7 relationship to the accused of the person posting cash
8 bail.

9 Upon setting the hearing, the court shall examine, under
10 oath, any persons who may possess material information.

11 The State's Attorney has a right to attend the hearing, to
12 call witnesses and to examine any witness in the proceeding.
13 The court shall, upon request of the State's Attorney, continue
14 the proceedings for a reasonable period to allow the State's
15 Attorney to investigate the matter raised in any testimony or
16 affidavit. If the hearing is granted after the accused has
17 posted bail, the court shall conduct a hearing consistent with
18 this subsection (b-5). At the conclusion of the hearing, the
19 court must issue an order either approving or disapproving the
20 bail.

21 (c) When a person is charged with an offense punishable by
22 fine only the amount of the bail shall not exceed double the
23 amount of the maximum penalty.

24 (d) When a person has been convicted of an offense and only
25 a fine has been imposed the amount of the bail shall not exceed
26 double the amount of the fine.

1 (e) The State may appeal any order granting bail or setting
2 a given amount for bail.

3 (f) When a person is charged with a violation of an order
4 of protection under Section 12-3.4 or 12-30 of the Criminal
5 Code of 1961 or the Criminal Code of 2012,

6 (1) whether the alleged incident involved harassment
7 or abuse, as defined in the Illinois Domestic Violence Act
8 of 1986;

9 (2) whether the person has a history of domestic
10 violence, as defined in the Illinois Domestic Violence Act,
11 or a history of other criminal acts;

12 (3) based on the mental health of the person;

13 (4) whether the person has a history of violating the
14 orders of any court or governmental entity;

15 (5) whether the person has been, or is, potentially a
16 threat to any other person;

17 (6) whether the person has access to deadly weapons or
18 a history of using deadly weapons;

19 (7) whether the person has a history of abusing alcohol
20 or any controlled substance;

21 (8) based on the severity of the alleged incident that
22 is the basis of the alleged offense, including, but not
23 limited to, the duration of the current incident, and
24 whether the alleged incident involved physical injury,
25 sexual assault, strangulation, abuse during the alleged
26 victim's pregnancy, abuse of pets, or forcible entry to

1 gain access to the alleged victim;

2 (9) whether a separation of the person from the alleged
3 victim or a termination of the relationship between the
4 person and the alleged victim has recently occurred or is
5 pending;

6 (10) whether the person has exhibited obsessive or
7 controlling behaviors toward the alleged victim,
8 including, but not limited to, stalking, surveillance, or
9 isolation of the alleged victim or victim's family member
10 or members;

11 (11) whether the person has expressed suicidal or
12 homicidal ideations;

13 (12) based on any information contained in the
14 complaint and any police reports, affidavits, or other
15 documents accompanying the complaint,

16 the court may, in its discretion, order the respondent to
17 undergo a risk assessment evaluation conducted by an Illinois
18 Department of Human Services approved partner abuse
19 intervention program provider, pretrial service, probation, or
20 parole agency. These agencies shall have access to summaries of
21 the defendant's criminal history, which shall not include
22 victim interviews or information, for the risk evaluation,
23 except that a pretrial service agency or probation department
24 shall have access to victim interviews conducted by law
25 enforcement agencies and access for a direct interview of the
26 victim for the purpose of determining bail. A probation officer

1 shall not have access to any confidential communications
2 protected under Section 227 of the Illinois Domestic Violence
3 Act of 1986. Prior to any direct interview of a victim by a
4 probation department or pre-trial service agency, a victim must
5 be informed of his or her right to decline the interview by the
6 official who is to conduct the interview. Communications
7 between a domestic violence victim and the probation department
8 or pre-trial service agency are protected under Section 8-802.4
9 of the Code of Civil Procedure. Based on the information
10 collected from the 12 points to be considered at a bail hearing
11 for a violation of an order of protection, the results of any
12 risk evaluation conducted and the other circumstances of the
13 violation, the court may order that the person, as a condition
14 of bail, be placed under electronic surveillance as provided in
15 Section 5-8A-7 of the Unified Code of Corrections.

16 (Source: P.A. 97-1150, eff. 1-25-13; 98-558, eff. 1-1-14.)

17 (725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

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

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

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

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

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

4 (4) Not violate any criminal statute of any
5 jurisdiction;

6 (5) At a time and place designated by the court,
7 surrender all firearms in his or her possession to a law
8 enforcement officer designated by the court to take custody
9 of and impound the firearms and physically surrender his or
10 her Firearm Owner's Identification Card to the clerk of the
11 circuit court when the offense the person has been charged
12 with is a forcible felony, stalking, aggravated stalking,
13 domestic battery, any violation of the Illinois Controlled
14 Substances Act, the Methamphetamine Control and Community
15 Protection Act, or the Cannabis Control Act that is
16 classified as a Class 2 or greater felony, or any felony
17 violation of Article 24 of the Criminal Code of 1961 or the
18 Criminal Code of 2012; the court may, however, forgo the
19 imposition of this condition when the circumstances of the
20 case clearly do not warrant it or when its imposition would
21 be impractical; if the Firearm Owner's Identification Card
22 is confiscated, the clerk of the circuit court shall mail
23 the confiscated card to the Illinois State Police; all
24 legally possessed firearms shall be returned to the person
25 upon the charges being dismissed, or if the person is found
26 not guilty, unless the finding of not guilty is by reason

1 of insanity; and

2 (6) At a time and place designated by the court, submit
3 to a psychological evaluation when the person has been
4 charged with a violation of item (4) of subsection (a) of
5 Section 24-1 of the Criminal Code of 1961 or the Criminal
6 Code of 2012 and that violation occurred in a school or in
7 any conveyance owned, leased, or contracted by a school to
8 transport students to or from school or a school-related
9 activity, or on any public way within 1,000 feet of real
10 property comprising any school.

11 Psychological evaluations ordered pursuant to this Section
12 shall be completed promptly and made available to the State,
13 the defendant, and the court. As a further condition of bail
14 under these circumstances, the court shall order the defendant
15 to refrain from entering upon the property of the school,
16 including any conveyance owned, leased, or contracted by a
17 school to transport students to or from school or a
18 school-related activity, or on any public way within 1,000 feet
19 of real property comprising any school. Upon receipt of the
20 psychological evaluation, either the State or the defendant may
21 request a change in the conditions of bail, pursuant to Section
22 110-6 of this Code. The court may change the conditions of bail
23 to include a requirement that the defendant follow the
24 recommendations of the psychological evaluation, including
25 undergoing psychiatric treatment. The conclusions of the
26 psychological evaluation and any statements elicited from the

1 defendant during its administration are not admissible as
2 evidence of guilt during the course of any trial on the charged
3 offense, unless the defendant places his or her mental
4 competency in issue.

5 (b) The court may impose other conditions, such as the
6 following, if the court finds that such conditions are
7 reasonably necessary to assure the defendant's appearance in
8 court, protect the public from the defendant, or prevent the
9 defendant's unlawful interference with the orderly
10 administration of justice:

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

13 (2) Refrain from possessing a firearm or other
14 dangerous weapon;

15 (3) Refrain from approaching or communicating with
16 particular persons or classes of persons;

17 (4) Refrain from going to certain described
18 geographical areas or premises;

19 (5) Refrain from engaging in certain activities or
20 indulging in intoxicating liquors or in certain drugs;

21 (6) Undergo treatment for drug addiction or
22 alcoholism;

23 (7) Undergo medical or psychiatric treatment;

24 (8) Work or pursue a course of study or vocational
25 training;

26 (9) Attend or reside in a facility designated by the

1 court;

2 (10) Support his or her dependents;

3 (11) If a minor resides with his or her parents or in a
4 foster home, attend school, attend a non-residential
5 program for youths, and contribute to his or her own
6 support at home or in a foster home;

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

8 (13) Remain in the custody of such designated person or
9 organization agreeing to supervise his release. Such third
10 party custodian shall be responsible for notifying the
11 court if the defendant fails to observe the conditions of
12 release which the custodian has agreed to monitor, and
13 shall be subject to contempt of court for failure so to
14 notify the court;

15 (14) Be placed under direct supervision of the Pretrial
16 Services Agency, Probation Department or Court Services
17 Department in a pretrial bond home supervision capacity
18 with or without the use of an approved electronic
19 monitoring device subject to Article 8A of Chapter V of the
20 Unified Code of Corrections;

21 (14.1) The court shall impose upon a defendant who is
22 charged with any alcohol, cannabis, methamphetamine, or
23 controlled substance violation and is placed under direct
24 supervision of the Pretrial Services Agency, Probation
25 Department or Court Services Department in a pretrial bond
26 home supervision capacity with the use of an approved

1 monitoring device, as a condition of such bail bond, a fee
2 that represents costs incidental to the electronic
3 monitoring for each day of such bail supervision ordered by
4 the court, unless after determining the inability of the
5 defendant to pay the fee, the court assesses a lesser fee
6 or no fee as the case may be. The fee shall be collected by
7 the clerk of the circuit court. The clerk of the circuit
8 court shall pay all monies collected from this fee to the
9 county treasurer for deposit in the substance abuse
10 services fund under Section 5-1086.1 of the Counties Code;

11 (14.2) The court shall impose upon all defendants,
12 including those defendants subject to paragraph (14.1)
13 above, placed under direct supervision of the Pretrial
14 Services Agency, Probation Department or Court Services
15 Department in a pretrial bond home supervision capacity
16 with the use of an approved monitoring device, as a
17 condition of such bail bond, a fee which shall represent
18 costs incidental to such electronic monitoring for each day
19 of such bail supervision ordered by the court, unless after
20 determining the inability of the defendant to pay the fee,
21 the court assesses a lesser fee or no fee as the case may
22 be. The fee shall be collected by the clerk of the circuit
23 court. The clerk of the circuit court shall pay all monies
24 collected from this fee to the county treasurer who shall
25 use the monies collected to defray the costs of
26 corrections. The county treasurer shall deposit the fee

1 collected in the county working cash fund under Section
2 6-27001 or Section 6-29002 of the Counties Code, as the
3 case may be;

4 (14.3) The Chief Judge of the Judicial Circuit may
5 establish reasonable fees to be paid by a person receiving
6 pretrial services while under supervision of a pretrial
7 services agency, probation department, or court services
8 department. Reasonable fees may be charged for pretrial
9 services including, but not limited to, pretrial
10 supervision, diversion programs, electronic monitoring,
11 victim impact services, drug and alcohol testing, DNA
12 testing, GPS electronic monitoring, assessments and
13 evaluations related to domestic violence and other
14 victims, and victim mediation services. The person
15 receiving pretrial services may be ordered to pay all costs
16 incidental to pretrial services in accordance with his or
17 her ability to pay those costs;

18 (14.4) For persons charged with violating Section
19 11-501 of the Illinois Vehicle Code, refrain from operating
20 a motor vehicle not equipped with an ignition interlock
21 device, as defined in Section 1-129.1 of the Illinois
22 Vehicle Code, pursuant to the rules promulgated by the
23 Secretary of State for the installation of ignition
24 interlock devices. Under this condition the court may allow
25 a defendant who is not self-employed to operate a vehicle
26 owned by the defendant's employer that is not equipped with

1 an ignition interlock device in the course and scope of the
2 defendant's employment;

3 (15) Comply with the terms and conditions of an order
4 of protection issued by the court under the Illinois
5 Domestic Violence Act of 1986 or an order of protection
6 issued by the court of another state, tribe, or United
7 States territory;

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

10 (17) Such other reasonable conditions as the court may
11 impose.

12 (c) When a person is charged with an offense under Section
13 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14,
14 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the
15 Criminal Code of 2012, involving a victim who is a minor under
16 18 years of age living in the same household with the defendant
17 at the time of the offense, in granting bail or releasing the
18 defendant on his own recognizance, the judge shall impose
19 conditions to restrict the defendant's access to the victim
20 which may include, but are not limited to conditions that he
21 will:

- 22 1. Vacate the Household.
- 23 2. Make payment of temporary support to his dependents.
- 24 3. Refrain from contact or communication with the child
25 victim, except as ordered by the court.

26 (d) When a person is charged with a criminal offense and

1 the victim is a family or household member as defined in
2 Article 112A, conditions shall be imposed at the time of the
3 defendant's release on bond that restrict the defendant's
4 access to the victim. Unless provided otherwise by the court,
5 the restrictions shall include requirements that the defendant
6 do the following:

7 (1) refrain from contact or communication with the
8 victim for a minimum period of 72 hours following the
9 defendant's release; and

10 (2) refrain from entering or remaining at the victim's
11 residence for a minimum period of 72 hours following the
12 defendant's release.

13 If the court determines there is a continuing danger to any
14 victim and that the 72-hour period of either no contact with a
15 victim or entering the victim's residence, as provided in this
16 subsection (d) would not be sufficient, then the court shall
17 add a second consecutive 72-hour period of no contact and a
18 prohibition on the defendant from entering the victim's
19 residence.

20 (e) Local law enforcement agencies shall develop
21 standardized bond forms for use in cases involving family or
22 household members as defined in Article 112A, including
23 specific conditions of bond as provided in subsection (d).
24 Failure of any law enforcement department to develop or use
25 those forms shall in no way limit the applicability and
26 enforcement of subsections (d) and (f).

1 (f) If the defendant is admitted to bail after conviction
2 the conditions of the bail bond shall be that he will, in
3 addition to the conditions set forth in subsections (a) and (b)
4 hereof:

5 (1) Duly prosecute his appeal;

6 (2) Appear at such time and place as the court may
7 direct;

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

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

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

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

19 (Source: P.A. 96-340, eff. 8-11-09; 96-1551, eff. 7-1-11;
20 97-401, eff. 1-1-12; 97-1109, eff. 1-1-13; 97-1150, eff.
21 1-25-13.)

22 (725 ILCS 5/112A-32 new)

23 Sec. 112A-32. Confidentiality of statements to probation
24 officers.

25 (a) Section 8-802.4 of the Code of Civil Procedure shall

1 apply to all proceedings under this Article.

2 (b) No probation officer shall disclose any confidential
3 communication or be examined as a witness in any civil,
4 criminal, or administrative proceeding as to any confidential
5 communication without the written consent of the domestic
6 violence victim or a representative of the victim as provided
7 in subsection (d) of Section 8-802.4 of the Code of Civil
8 Procedure, except to the extent the probation officer
9 reasonably believes necessary to prevent reasonably certain
10 death or substantial bodily harm. A probation officer may not
11 disclose, affirm, or deny whether any confidential
12 communication occurred or the existence of any interview,
13 written assessment, work papers, or notes, in any proceeding to
14 determine the conditions of bail in conjunction with a risk
15 assessment evaluation conducted under subsection (f) of
16 Section 110-5 of this Code.

17 Section 10. The Pretrial Services Act is amended by
18 changing Section 31 as follows:

19 (725 ILCS 185/31) (from Ch. 38, par. 331)

20 Sec. 31. (a) Information and records maintained by the
21 pretrial services agency which have not been disclosed in open
22 court during a court proceeding shall not be released by the
23 pretrial services agency to any individual or organization,
24 other than any employee of a Probation and Court Service

1 Department, without the express permission of the interviewed
2 or supervised person at or near the time the information is to
3 be released, except as provided in subsection (b) of this
4 Section. An individual shall have access to all information and
5 records about himself or herself maintained by or collected by
6 the pretrial services agency. The principle of confidentiality
7 shall not bar a pretrial services agency from making its data
8 available for research purposes to qualified personnel,
9 provided that no records or other information shall be made
10 available in which individuals interviewed or supervised are
11 identified or from which their identities are ascertainable.

12 (b) A probation officer shall not disclose any confidential
13 communication nor be examined as a witness in any civil,
14 criminal, or administrative proceeding as to any confidential
15 communication without the written consent of the domestic
16 violence victim or a representative of the victim as provided
17 in subsection (d) of Section 8-802.4 of the Code of Civil
18 Procedure, except to the extent the probation officer
19 reasonably believes necessary to prevent reasonably certain
20 death or substantial bodily harm. A probation officer may not
21 disclose, affirm, or deny whether any confidential
22 communication occurred or the existence of any interview,
23 written assessment, work papers, or notes, in any proceeding to
24 determine the conditions of bail in conjunction with a risk
25 assessment evaluation conducted under subsection (f) of
26 Section 110-5 of the Code of Criminal Procedure of 1963.

1 (Source: P.A. 91-357, eff. 7-29-99.)

2 Section 15. The Probation and Probation Officers Act is
3 amended by adding Section 15.2 as follows:

4 (730 ILCS 110/15.2 new)

5 Sec. 15.2. Protection of domestic violence victims.

6 (a) The General Assembly finds that responses to offenses
7 of domestic violence and violations of domestic orders of
8 protection require careful attention to the safety of the
9 victim and all dependent family members, and that sufficient
10 protections to those victims are required to ensure the public
11 safety of the victims and the community.

12 (b) The Probation Division of the Administrative Office of
13 the Illinois Courts shall, within one year from the effective
14 date of this amendatory Act of the 98th General Assembly, with
15 the assistance of other members of the criminal justice
16 community, mental health or behavioral health experts, and
17 advocates for the protection of domestic violence victims,
18 develop a risk assessment tool to assess the continuing danger
19 to victims of domestic violence and their dependent family
20 members.

21 (c) The Probation Division of the Administrative Office of
22 the Illinois Courts shall implement training standards for
23 probation officers for domestic violence caseloads. A 40 hour
24 specialized course shall be developed with attention to the

1 needs, protections, and special circumstances of domestic
2 violence victims and their dependent family members. It shall
3 also focus on the behavior patterns of domestic violence
4 offenders. The Probation Division shall determine appropriate
5 scheduling and certification for completion. Probation officer
6 basic training shall also include attention to domestic
7 violence training. On and after January 1, 2017, any probation
8 officer who conducts a risk assessment evaluation under
9 subsection (f) of Section 110-5 of the Code of Criminal
10 Procedure of 1963, must be certified under this specialized
11 course.

12 (d) No probation officer shall disclose any confidential
13 communication or be examined as a witness in any civil,
14 criminal or administrative proceeding as to any confidential
15 communication without the written consent of the domestic
16 violence victim or a representative of the victim as provided
17 in subsection (d) of Section 8-802.4 of the Code of Civil
18 Procedure, except to the extent the probation officer
19 reasonably believes necessary to prevent reasonably certain
20 death or substantial bodily harm. A probation officer may not
21 disclose, affirm, or deny whether any confidential
22 communication occurred or the existence of any interview,
23 written assessment, work papers, or notes, in any proceeding to
24 determine the conditions of bail in conjunction with a risk
25 assessment evaluation conducted under subsection (f) of
26 Section 110-5 of the Code of Criminal Procedure of 1963.

1 Section 20. The Code of Civil Procedure is amended by
2 adding Section 8-802.4 as follows:

3 (735 ILCS 5/8-802.4 new)

4 Sec. 8-802.4. Confidentiality of statements made to
5 probation officers by victims of domestic violence.

6 (a) Purpose. This Section is intended to protect victims of
7 domestic violence from public disclosure of interviews,
8 statements they make in confidence to probation officers, and
9 the work product from those interviews and statements. Because
10 of the fear of future or escalating incidents of domestic
11 violence, victims hesitate to seek the protection of the court
12 system. As a result they not only fail to seek intervention,
13 but may feel a lack of safety in seeking the support necessary
14 to report the crime and aid the court system and law
15 enforcement in preventing future crimes.

16 (b) Definitions. As used in this Section:

17 "Confidential communication" means any communication
18 between a domestic violence victim and a probation officer
19 in the course of any risk assessment evaluation conducted
20 under subsection (f) of Section 110-5 of the Code of
21 Criminal Procedure of 1963 for the purposes of assisting
22 the probation officer in recommending conditions of bail,
23 release, and conditions of probation. "Confidential
24 communication" includes all records, notes, work papers,

1 interview notes or written assessments kept by the
2 probation officer or by the probation department in the
3 course of any risk assessment evaluation conducted under
4 subsection (f) of Section 110-5 of the Code of Criminal
5 Procedure of 1963. A probation officer may not disclose,
6 affirm, or deny whether any confidential communication
7 occurred or the existence of any interview, written
8 assessment, work papers, or notes, in any proceeding to
9 determine the conditions of bail in conjunction with a risk
10 assessment evaluation conducted under subsection (f) of
11 Section 110-5 of the Code of Criminal Procedure of 1963.

12 "Domestic violence victim" means a person who
13 communicates with a probation officer for the purpose of
14 assisting the probation officer in recommending conditions
15 of bail, release, and conditions of probation under
16 subsection (f) of Section 110-5 of the Code of Criminal
17 Procedure of 1963, whether or not charges have been filed.

18 "Probation department" means any department as defined
19 in Section 9b of the Probation and Probation Officers Act.

20 "Probation officer" means any probation officer as
21 defined in Section 9b of the Probation and Probation
22 Officers Act who has been trained in accordance with
23 Section 15.2 of that Act.

24 (c) Confidentiality. No probation officer shall disclose
25 any confidential communication or be examined as a witness in
26 any civil, criminal or administrative proceeding as to any

1 confidential communication without the written consent of the
2 domestic violence victim or a representative of the victim as
3 provided in subsection (d) of this Section, except to the
4 extent the probation officer reasonably believes necessary to
5 prevent reasonably certain death or substantial bodily harm.
6 Any probation officer or probation department participating in
7 good faith in the disclosing of communications under this
8 Section shall have immunity from any liability, civil,
9 criminal, or otherwise that might result from the action.

10 (d) Waiver of privilege.

11 (1) The confidential nature of the confidential
12 communication is not waived by: the presence of a third
13 person who further expresses the interests of the domestic
14 violence victim at the time of the communication; or
15 disclosure to a third person with the written consent of
16 the domestic violence victim when reasonably necessary to
17 accomplish the purposes of a risk assessment evaluation
18 under subsection (f) of Section 110-5 of the Code of
19 Criminal Procedure of 1963.

20 (2) The confidential nature of the confidential
21 communication to probation officers is not waived when: the
22 domestic violence victim inspects the records; or in the
23 case of a minor less than 12 years of age, a parent or
24 guardian whose interests are not adverse to the minor
25 inspects the records; or in the case of a minor victim 12
26 years or older, a parent or guardian whose interests are

1 not adverse to the minor inspects the records with the
2 victim's consent, or in the case of an adult who has a
3 guardian of his or her person, the guardian inspects the
4 records with the victim's consent.

5 (3) When a domestic violence victim is deceased, the
6 executor or administrator of the victim's estate may waive
7 the privilege established by this Section, unless the
8 executor or administrator has an interest adverse to the
9 victim.

10 (4) A domestic violence victim who is a minor 12 years
11 of age or older may knowingly waive the privilege
12 established in this Section. When a minor is, in the
13 opinion of the Court, incapable of knowingly waiving the
14 privilege, the parent or guardian of the minor may waive
15 the privilege on behalf of the minor, unless the parent or
16 guardian has been charged with a crime against the minor or
17 otherwise has any interest adverse to that of the minor
18 with respect to the waiver of the privilege.

19 (5) An adult domestic violence victim who has a
20 guardian of his or her person may knowingly waive the
21 privilege established in this Section. When the victim is,
22 in the opinion of the court, incapable of knowingly waiving
23 the privilege, the guardian of the adult victim may waive
24 the privilege on behalf of the victim, unless the guardian
25 has been charged with a crime against the victim or
26 otherwise has any interest adverse to the victim with

1 respect to the privilege.

2 (e) Any probation officer who knowingly discloses any
3 confidential communication in violation of this Section
4 commits a Class C misdemeanor.

5 Section 99. Effective date. This Section and Sections 10
6 and 15 of this Act take effect upon becoming law. Sections 5
7 and 20 of this Act take effect July 1, 2015.