



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5042

by Rep. John C. D'Amico

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/2-118.1

from Ch. 95 1/2, par. 2-118.1

Amends the Illinois Vehicle Code. Provides that any court order rescinding a statutory summary suspension or revocation must contain a factual basis for rescission. Provides that upon receipt of a court order rescinding a statutory summary suspension or revocation that does not contain a factual basis for the rescission, the Secretary of State shall return the order to the court and shall be prohibited from rescinding the statutory summary suspension until such time as the Secretary receives a court order containing a factual basis for rescission. Effective immediately.

LRB100 18569 LNS 33790 b

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing  
5 Section 2-118.1 as follows:

6 (625 ILCS 5/2-118.1) (from Ch. 95 1/2, par. 2-118.1)

7 Sec. 2-118.1. Opportunity for hearing; statutory summary  
8 alcohol or other drug related suspension or revocation pursuant  
9 to Section 11-501.1.

10 (a) A statutory summary suspension or revocation of driving  
11 privileges under Section 11-501.1 shall not become effective  
12 until the person is notified in writing of the impending  
13 suspension or revocation and informed that he may request a  
14 hearing in the circuit court of venue under paragraph (b) of  
15 this Section and the statutory summary suspension or revocation  
16 shall become effective as provided in Section 11-501.1.

17 (b) Within 90 days after the notice of statutory summary  
18 suspension or revocation served under Section 11-501.1, the  
19 person may make a written request for a judicial hearing in the  
20 circuit court of venue. The request to the circuit court shall  
21 state the grounds upon which the person seeks to have the  
22 statutory summary suspension or revocation rescinded. Within  
23 30 days after receipt of the written request or the first

1 appearance date on the Uniform Traffic Ticket issued pursuant  
2 to a violation of Section 11-501, or a similar provision of a  
3 local ordinance, the hearing shall be conducted by the circuit  
4 court having jurisdiction. This judicial hearing, request, or  
5 process shall not stay or delay the statutory summary  
6 suspension or revocation. The hearings shall proceed in the  
7 court in the same manner as in other civil proceedings.

8 The hearing may be conducted upon a review of the law  
9 enforcement officer's own official reports; provided however,  
10 that the person may subpoena the officer. Failure of the  
11 officer to answer the subpoena shall be considered grounds for  
12 a continuance if in the court's discretion the continuance is  
13 appropriate.

14 The scope of the hearing shall be limited to the issues of:

15 1. Whether the person was placed under arrest for an  
16 offense as defined in Section 11-501, or a similar  
17 provision of a local ordinance, as evidenced by the  
18 issuance of a Uniform Traffic Ticket, or issued a Uniform  
19 Traffic Ticket out of state as provided in subsection (a)  
20 of Section 11-501.1; and

21 2. Whether the officer had reasonable grounds to  
22 believe that the person was driving or in actual physical  
23 control of a motor vehicle upon a highway while under the  
24 influence of alcohol, other drug, or combination of both;  
25 and

26 3. Whether the person, after being advised by the

1 officer that the privilege to operate a motor vehicle would  
2 be suspended or revoked if the person refused to submit to  
3 and complete the test or tests, did refuse to submit to or  
4 complete the test or tests to determine the person's blood  
5 alcohol or drug concentration; or

6 4. Whether the person, after being advised by the  
7 officer that the privilege to operate a motor vehicle would  
8 be suspended if the person submits to a chemical test, or  
9 tests, and the test discloses an alcohol concentration of  
10 0.08 or more, a tetrahydrocannabinol concentration as  
11 defined in paragraph 6 of subsection (a) of Section  
12 11-501.2 of this Code, or any amount of a drug, substance,  
13 or compound in the person's blood, other bodily substance,  
14 or urine resulting from the unlawful use or consumption of  
15 a controlled substance listed in the Illinois Controlled  
16 Substances Act, an intoxicating compound as listed in the  
17 Use of Intoxicating Compounds Act, or methamphetamine as  
18 listed in the Methamphetamine Control and Community  
19 Protection Act, and the person did submit to and complete  
20 the test or tests that determined an alcohol concentration  
21 of 0.08 or more.

22 4.2. (Blank).

23 4.5. (Blank).

24 5. If the person's driving privileges were revoked,  
25 whether the person was involved in a motor vehicle accident  
26 that caused Type A injury or death to another.

1           Upon the conclusion of the judicial hearing, the circuit  
2 court shall sustain or rescind the statutory summary suspension  
3 or revocation and immediately notify the Secretary of State.  
4 Any court order rescinding a statutory summary suspension or  
5 revocation must contain a factual basis for the rescission.  
6 Upon receipt of a court order rescinding a statutory summary  
7 suspension or revocation that does not contain a factual basis  
8 for the rescission, the Secretary of State shall return the  
9 order to the court and shall be prohibited from rescinding the  
10 statutory summary suspension until such time as the Secretary  
11 receives a court order containing a factual basis for the  
12 rescission. Reports received by the Secretary of State under  
13 this Section shall be privileged information and for use only  
14 by the courts, police officers, and Secretary of State.

15           (Source: P.A. 98-122, eff. 1-1-14; 98-1172, eff. 1-12-15;  
16 99-697, eff. 7-29-16.)

17           Section 99. Effective date. This Act takes effect upon  
18 becoming law.