

# HB5649



## 100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5649

by Rep. Jim Durkin

### SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-4

from Ch. 38, par. 110-4

Amends the Code of Criminal Procedure of 1963. Provides that battery against a peace officer during the course of the defendant's arrest that results in bodily harm to the peace officer, where the court, after a hearing, determines that the release of the defendant would pose a real and present threat to the physical safety of any person or persons, if the proof is evident or the presumption great that the defendant is guilty of the offense, is non-bailable.

LRB100 18332 SLF 33538 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 110-4 as follows:

6 (725 ILCS 5/110-4) (from Ch. 38, par. 110-4)

7 Sec. 110-4. Bailable Offenses.

8 (a) All persons shall be bailable before conviction, except  
9 the following offenses where the proof is evident or the  
10 presumption great that the defendant is guilty of the offense:  
11 capital offenses; offenses for which a sentence of life  
12 imprisonment may be imposed as a consequence of conviction;  
13 felony offenses for which a sentence of imprisonment, without  
14 conditional and revocable release, shall be imposed by law as a  
15 consequence of conviction, where the court after a hearing,  
16 determines that the release of the defendant would pose a real  
17 and present threat to the physical safety of any person or  
18 persons; battery against a peace officer during the course of  
19 the defendant's arrest that results in bodily harm to the peace  
20 officer, where the court, after a hearing, determines that the  
21 release of the defendant would pose a real and present threat  
22 to the physical safety of any person or persons; stalking or  
23 aggravated stalking, where the court, after a hearing,

1 determines that the release of the defendant would pose a real  
2 and present threat to the physical safety of the alleged victim  
3 of the offense and denial of bail is necessary to prevent  
4 fulfillment of the threat upon which the charge is based; or  
5 unlawful use of weapons in violation of item (4) of subsection  
6 (a) of Section 24-1 of the Criminal Code of 1961 or the  
7 Criminal Code of 2012 when that offense occurred in a school or  
8 in any conveyance owned, leased, or contracted by a school to  
9 transport students to or from school or a school-related  
10 activity, or on any public way within 1,000 feet of real  
11 property comprising any school, where the court, after a  
12 hearing, determines that the release of the defendant would  
13 pose a real and present threat to the physical safety of any  
14 person and denial of bail is necessary to prevent fulfillment  
15 of that threat; or making a terrorist threat in violation of  
16 Section 29D-20 of the Criminal Code of 1961 or the Criminal  
17 Code of 2012 or an attempt to commit the offense of making a  
18 terrorist threat, where the court, after a hearing, determines  
19 that the release of the defendant would pose a real and present  
20 threat to the physical safety of any person and denial of bail  
21 is necessary to prevent fulfillment of that threat.

22 (b) A person seeking release on bail who is charged with a  
23 capital offense or an offense for which a sentence of life  
24 imprisonment may be imposed shall not be bailable until a  
25 hearing is held wherein such person has the burden of  
26 demonstrating that the proof of his guilt is not evident and

1 the presumption is not great.

2 (c) Where it is alleged that bail should be denied to a  
3 person upon the grounds that the person presents a real and  
4 present threat to the physical safety of any person or persons,  
5 the burden of proof of such allegations shall be upon the  
6 State.

7 (d) When it is alleged that bail should be denied to a  
8 person charged with stalking or aggravated stalking upon the  
9 grounds set forth in Section 110-6.3 of this Code, the burden  
10 of proof of those allegations shall be upon the State.

11 (Source: P.A. 97-1150, eff. 1-25-13.)