



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3505

Introduced 2/9/2024, by Sen. Laura Ellman

SYNOPSIS AS INTRODUCED:

725 ILCS 5/107-9
725 ILCS 5/109-2

from Ch. 38, par. 107-9
from Ch. 38, par. 109-2

Amends the Code of Criminal Procedure of 1963. Provides that the warrant of arrest or summons shall command that the person against whom the complaint was made to be arrested and brought before the court issuing the warrant at a certain day, time, and courtroom number, or the nearest or most accessible court in the same county, or appear before the court at a certain time and place. Provides that if a person has a warrant in another county for an offense and the county where the warrant is outstanding fails to transport the person to the county where the warrant was issued for a hearing no later than 5 calendar days after the end of any detention issued on the charge in the arresting county, the county where the warrant is outstanding shall mark the warrant as served (rather than quash the warrant) and order the person released on the case for which the warrant was issued. Provides that if the issuing county fails to take any action within 5 calendar days, the defendant shall be released from custody on the warrant, and the circuit judge or associate circuit judge in the county of arrest shall set conditions of release and shall admit the defendant to pretrial release and shall schedule for his or her appearance before the court named in the warrant based upon the court day, time, and courtroom number listed on the warrant.

LRB103 38803 RLC 68940 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 Sections 107-9 and 109-2 as follows:

6 (725 ILCS 5/107-9) (from Ch. 38, par. 107-9)

7 Sec. 107-9. Issuance of arrest warrant upon complaint.

8 (a) When a complaint is presented to a court charging that
9 an offense has been committed, it shall examine upon oath or
10 affirmation the complainant or any witnesses.

11 (b) The complaint shall be in writing and shall:

12 (1) State the name of the accused if known, and if not
13 known the accused may be designated by any name or
14 description by which he can be identified with reasonable
15 certainty;

16 (2) State the offense with which the accused is
17 charged;

18 (3) State the time and place of the offense as
19 definitely as can be done by the complainant; and

20 (4) Be subscribed and sworn to by the complainant.

21 (b-5) If an arrest warrant or summons is sought and the
22 request is made by electronic means that has a simultaneous
23 video and audio transmission between the requester and a

1 judge, the judge may issue an arrest warrant or summons based
2 upon a sworn complaint or sworn testimony communicated in the
3 transmission.

4 (c) A warrant or summons may be issued by the court for the
5 arrest or appearance of the person complained against if it
6 appears from the contents of the complaint and the examination
7 of the complainant or other witnesses, if any, that the person
8 against whom the complaint was made has committed an offense.

9 (d) The warrant of arrest or summons shall:

10 (1) Be in writing;

11 (2) Specify the name, sex and birth date of the person
12 to be arrested or summoned or, if his name, sex or birth
13 date is unknown, shall designate such person by any name
14 or description by which the person can be identified with
15 reasonable certainty;

16 (3) Set forth the nature of the offense;

17 (4) State the date when issued and the municipality or
18 county where issued;

19 (5) Be signed by the judge of the court with the title
20 of the judge's office; and

21 (6) Command that the person against whom the complaint
22 was made to be arrested and brought before the court
23 issuing the warrant at a certain day, time, and courtroom
24 number, or the nearest or most accessible court in the
25 same county, or appear before the court at a certain time
26 and place;

1 (7) Specify the conditions of pretrial release, if
2 any; and

3 (8) Specify any geographical limitation placed on the
4 execution of the warrant, if any, but such limitation
5 shall not be expressed in mileage.

6 (e) The summons may be served in the same manner as the
7 summons in a civil action, except that a police officer may
8 serve a summons for a violation of an ordinance occurring
9 within the municipality of the police officer.

10 (f) If the person summoned fails to appear by the date
11 required or cannot be located to serve the summons, a warrant
12 may be issued by the court for the arrest of the person
13 complained against.

14 (g) A warrant of arrest issued under this Section shall
15 incorporate the information included in the summons, and shall
16 comply with the following:

17 (1) The arrest warrant shall specify any geographic
18 limitation placed on the execution of the warrant, but
19 such limitation shall not be expressed in mileage.

20 (2) The arrest warrant shall be directed to all peace
21 officers in the State. It shall be executed by the peace
22 officer, or by a private person specially named therein,
23 at any location within the geographic limitation for
24 execution placed on the warrant. If no geographic
25 limitation is placed on the warrant, then it may be
26 executed anywhere in the State.

1 (h) The arrest warrant or summons may be issued
2 electronically or electromagnetically by use of electronic
3 mail or a facsimile transmission machine and any such arrest
4 warrant or summons shall have the same validity as a written
5 arrest warrant or summons.

6 (Source: P.A. 101-239, eff. 1-1-20; 101-652, eff. 1-1-23;
7 102-1104, eff. 1-1-23.)

8 (725 ILCS 5/109-2) (from Ch. 38, par. 109-2)

9 Sec. 109-2. Person arrested in another county.

10 (a) Any person arrested in a county other than the one in
11 which a warrant for his arrest was issued shall be taken
12 without unnecessary delay before the nearest and most
13 accessible judge in the county where the arrest was made or, if
14 no additional delay is created, before the nearest and most
15 accessible judge in the county from which the warrant was
16 issued. The judge may hold a hearing to determine if the
17 defendant is the same person as named in the warrant.

18 (b) Notwithstanding the provisions of subsection (a), any
19 person arrested in a county other than the one in which a
20 warrant for his arrest was issued, may waive the right to be
21 taken before a judge in the county where the arrest was made.
22 If a person so arrested waives such right, the arresting
23 agency shall surrender such person to a law enforcement agency
24 of the county that issued the warrant without unnecessary
25 delay. The provisions of Section 109-1 shall then apply to the

1 person so arrested.

2 (c) If a person is taken before a judge in any county and a
3 warrant for arrest issued by another Illinois county exists
4 for that person, the court in the arresting county shall hold
5 for that person a detention hearing under Section 110-6.1, or
6 other hearing under Section 110-5 or Section 110-6.

7 (d) After the court in the arresting county has determined
8 whether the person shall be released or detained on the
9 arresting offense, the court shall then order the sheriff to
10 immediately contact the sheriff in any county where any
11 warrant is outstanding and notify them of the arrest of the
12 individual.

13 (e) If a person has a warrant in another county for an
14 offense, then, no later than 5 calendar days after the end of
15 any detention issued on the charge in the arresting county,
16 the county where the warrant is outstanding shall do one of the
17 following:

18 (1) transport the person to the county where the
19 warrant was issued for a hearing under Section 110-6 or
20 110-6.1 in the matter for which the warrant was issued; or

21 (2) mark ~~quash~~ the warrant as served and order the
22 person released on the case for which the warrant was
23 issued only when the county that issued the warrant fails
24 to transport the defendant in the timeline as proscribed.

25 (f) If the issuing county fails to take any action under
26 subsection (e) within 5 calendar days, the defendant shall be

1 released from custody on the warrant, and the circuit judge or
2 associate circuit judge in the county of arrest shall set
3 conditions of release under Section 110-5 and shall admit the
4 defendant to pretrial release and shall schedule for his or
5 her appearance before the court named in the warrant based
6 upon the court day, time, and courtroom number listed on the
7 warrant. Upon releasing the defendant, the circuit judge or
8 associate circuit judge shall certify such a fact on the
9 warrant and deliver the warrant and the acknowledgment by the
10 defendant of his or her receiving the conditions of pretrial
11 release to the officer having charge of the defendant from
12 arrest and without delay deliver such warrant and such
13 acknowledgment by the defendant of his or her receiving the
14 conditions to the court before which the defendant is required
15 to appear.

16 (g) If a person has a warrant in another county, in lieu of
17 transporting the person to the issuing county as outlined in
18 subsection (e), the issuing county may hold the hearing by way
19 of a two-way audio-visual communication system if the accused
20 waives the right to be physically present in court, the court
21 determines that the physical health and safety of any person
22 necessary to the proceedings would be endangered by appearing
23 in court, or the chief judge of the circuit orders use of that
24 system due to operational challenges in conducting the hearing
25 in person. Such operational challenges must be documented and
26 approved by the chief judge of the circuit, and a plan to

1 address the challenges through reasonable efforts must be
2 presented and approved by the Administrative Office of the
3 Illinois Courts every 6 months.

4 (h) If more than 2 Illinois county warrants exist, the
5 judge in the county of arrest shall order that the process
6 described in subsections (d) through (f) occur in each county
7 in whatever order the judge finds most appropriate. Each judge
8 in each subsequent county shall then follow the rules in this
9 Section.

10 (i) This Section applies only to warrants issued by
11 Illinois state, county, or municipal courts.

12 (j) When an issuing agency is contacted by an out-of-state
13 agency of a person arrested for any offense, or when an
14 arresting agency is contacted by or contacts an out-of-state
15 issuing agency, the Uniform Criminal Extradition Act shall
16 govern.

17 (Source: P.A. 101-652, eff. 1-1-23; 102-1104, eff. 1-1-23.)