

# HB1617



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1617

Introduced 2/22/2007, by Rep. Linda Chapa LaVia

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-4

from Ch. 38, par. 110-4

Amends the Code of Criminal Procedure of 1963. Provides that the court may not grant bail to a person who is charged with first degree murder in which the victim of the offense was under 18 years of age at the time of the commission of the offense and the victim was murdered in the course of gang-related activity.

LRB095 08520 RLC 28701 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; stalking or aggravated stalking, where the court,  
19 after a hearing, determines that the release of the defendant  
20 would pose a real and present threat to the physical safety of  
21 the alleged victim of the offense and denial of bail is  
22 necessary to prevent fulfillment of the threat upon which the  
23 charge is based; ~~or~~ unlawful use of weapons in violation of

1 item (4) of subsection (a) of Section 24-1 of the Criminal Code  
2 of 1961 when that offense occurred in a school or in any  
3 conveyance owned, leased, or contracted by a school to  
4 transport students to or from school or a school-related  
5 activity, or on any public way within 1,000 feet of real  
6 property comprising any school, where the court, after a  
7 hearing, determines that the release of the defendant would  
8 pose a real and present threat to the physical safety of any  
9 person and denial of bail is necessary to prevent fulfillment  
10 of that threat; or first degree murder in which the victim of  
11 the offense was under 18 years of age at the time of the  
12 commission of the offense and the victim was murdered in the  
13 course of gang-related activity.

14 (b) A person seeking release on bail who is charged with a  
15 capital offense or an offense for which a sentence of life  
16 imprisonment may be imposed shall not be bailable until a  
17 hearing is held wherein such person has the burden of  
18 demonstrating that the proof of his guilt is not evident and  
19 the presumption is not great.

20 (c) Where it is alleged that bail should be denied to a  
21 person upon the grounds that the person presents a real and  
22 present threat to the physical safety of any person or persons,  
23 the burden of proof of such allegations shall be upon the  
24 State.

25 (d) When it is alleged that bail should be denied to a  
26 person charged with stalking or aggravated stalking upon the

1 grounds set forth in Section 110-6.3 of this Code, the burden  
2 of proof of those allegations shall be upon the State.

3 (e) The court may not grant bail to a person who is charged  
4 with first degree murder in which the victim of the offense was  
5 under 18 years of age at the time of the commission of the  
6 offense and the victim was murdered in the course of  
7 gang-related activity.

8 (f) For purposes of this Section, "gang-related" is as  
9 defined in Section 10 of the Illinois Streetgang Terrorism  
10 Omnibus Prevention Act.

11 (Source: P.A. 91-11, eff. 6-4-99.)