

HB3811



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3811

Introduced 2/25/2009, by Rep. Constance A. Howard

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-10

from Ch. 38, par. 110-10

Amends the Code of Criminal Procedure of 1963. Provides that reasonable fees may be charged for pretrial services, including but not limited to, DNA testing, GPS electronic monitoring, assessments and evaluations related to domestic violence and other victims. Effective immediately.

LRB096 08787 RLC 18920 b

FISCAL NOTE ACT
MAY APPLY

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 110-10 as follows:

6 (725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

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

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

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

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

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

18 (4) Not violate any criminal statute of any
19 jurisdiction;

20 (5) At a time and place designated by the court,
21 surrender all firearms in his or her possession to a law
22 enforcement officer designated by the court to take custody
23 of and impound the firearms and physically surrender his or

1 her Firearm Owner's Identification Card to the clerk of the
2 circuit court when the offense the person has been charged
3 with is a forcible felony, stalking, aggravated stalking,
4 domestic battery, any violation of the Illinois Controlled
5 Substances Act, the Methamphetamine Control and Community
6 Protection Act, or the Cannabis Control Act that is
7 classified as a Class 2 or greater felony, or any felony
8 violation of Article 24 of the Criminal Code of 1961; the
9 court may, however, forgo the imposition of this condition
10 when the circumstances of the case clearly do not warrant
11 it or when its imposition would be impractical; all legally
12 possessed firearms shall be returned to the person upon the
13 charges being dismissed, or if the person is found not
14 guilty, unless the finding of not guilty is by reason of
15 insanity; and

16 (6) At a time and place designated by the court, submit
17 to a psychological evaluation when the person has been
18 charged with a violation of item (4) of subsection (a) of
19 Section 24-1 of the Criminal Code of 1961 and that
20 violation occurred in a school or in any conveyance owned,
21 leased, or contracted by a school to transport students to
22 or from school or a school-related activity, or on any
23 public way within 1,000 feet of real property comprising
24 any school.

25 Psychological evaluations ordered pursuant to this Section
26 shall be completed promptly and made available to the State,

1 the defendant, and the court. As a further condition of bail
2 under these circumstances, the court shall order the defendant
3 to refrain from entering upon the property of the school,
4 including any conveyance owned, leased, or contracted by a
5 school to transport students to or from school or a
6 school-related activity, or on any public way within 1,000 feet
7 of real property comprising any school. Upon receipt of the
8 psychological evaluation, either the State or the defendant may
9 request a change in the conditions of bail, pursuant to Section
10 110-6 of this Code. The court may change the conditions of bail
11 to include a requirement that the defendant follow the
12 recommendations of the psychological evaluation, including
13 undergoing psychiatric treatment. The conclusions of the
14 psychological evaluation and any statements elicited from the
15 defendant during its administration are not admissible as
16 evidence of guilt during the course of any trial on the charged
17 offense, unless the defendant places his or her mental
18 competency in issue.

19 (b) The court may impose other conditions, such as the
20 following, if the court finds that such conditions are
21 reasonably necessary to assure the defendant's appearance in
22 court, protect the public from the defendant, or prevent the
23 defendant's unlawful interference with the orderly
24 administration of justice:

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

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

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

5 (4) Refrain from going to certain described
6 geographical areas or premises;

7 (5) Refrain from engaging in certain activities or
8 indulging in intoxicating liquors or in certain drugs;

9 (6) Undergo treatment for drug addiction or
10 alcoholism;

11 (7) Undergo medical or psychiatric treatment;

12 (8) Work or pursue a course of study or vocational
13 training;

14 (9) Attend or reside in a facility designated by the
15 court;

16 (10) Support his or her dependents;

17 (11) If a minor resides with his or her parents or in a
18 foster home, attend school, attend a non-residential
19 program for youths, and contribute to his or her own
20 support at home or in a foster home;

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

22 (13) Remain in the custody of such designated person or
23 organization agreeing to supervise his release. Such third
24 party custodian shall be responsible for notifying the
25 court if the defendant fails to observe the conditions of
26 release which the custodian has agreed to monitor, and

1 shall be subject to contempt of court for failure so to
2 notify the court;

3 (14) Be placed under direct supervision of the Pretrial
4 Services Agency, Probation Department or Court Services
5 Department in a pretrial bond home supervision capacity
6 with or without the use of an approved electronic
7 monitoring device subject to Article 8A of Chapter V of the
8 Unified Code of Corrections;

9 (14.1) The court shall impose upon a defendant who is
10 charged with any alcohol, cannabis, methamphetamine, or
11 controlled substance violation and is placed under direct
12 supervision of the Pretrial Services Agency, Probation
13 Department or Court Services Department in a pretrial bond
14 home supervision capacity with the use of an approved
15 monitoring device, as a condition of such bail bond, a fee
16 that represents costs incidental to the electronic
17 monitoring for each day of such bail supervision ordered by
18 the court, unless after determining the inability of the
19 defendant to pay the fee, the court assesses a lesser fee
20 or no fee as the case may be. The fee shall be collected by
21 the clerk of the circuit court. The clerk of the circuit
22 court shall pay all monies collected from this fee to the
23 county treasurer for deposit in the substance abuse
24 services fund under Section 5-1086.1 of the Counties Code;

25 (14.2) The court shall impose upon all defendants,
26 including those defendants subject to paragraph (14.1)

1 above, placed under direct supervision of the Pretrial
2 Services Agency, Probation Department or Court Services
3 Department in a pretrial bond home supervision capacity
4 with the use of an approved monitoring device, as a
5 condition of such bail bond, a fee which shall represent
6 costs incidental to such electronic monitoring for each day
7 of such bail supervision ordered by the court, unless after
8 determining the inability of the defendant to pay the fee,
9 the court assesses a lesser fee or no fee as the case may
10 be. The fee shall be collected by the clerk of the circuit
11 court. The clerk of the circuit court shall pay all monies
12 collected from this fee to the county treasurer who shall
13 use the monies collected to defray the costs of
14 corrections. The county treasurer shall deposit the fee
15 collected in the county working cash fund under Section
16 6-27001 or Section 6-29002 of the Counties Code, as the
17 case may be;

18 (14.3) The Chief Judge of the Judicial Circuit may
19 establish reasonable fees to be paid by a person receiving
20 pretrial services while under supervision of a pretrial
21 services agency, probation department, or court services
22 department. Reasonable fees may be charged for pretrial
23 services including, but not limited to, pretrial
24 supervision, diversion programs, electronic monitoring,
25 victim impact services, drug and alcohol testing, DNA
26 testing, GPS electronic monitoring, assessments and

1 evaluations related to domestic violence and other
2 victims, and victim mediation services. The person
3 receiving pretrial services may be ordered to pay all costs
4 incidental to pretrial services in accordance with his or
5 her ability to pay those costs;

6 (14.4) For persons charged with violating Section
7 11-501 of the Illinois Vehicle Code, refrain from operating
8 a motor vehicle not equipped with an ignition interlock
9 device, as defined in Section 1-129.1 of the Illinois
10 Vehicle Code, pursuant to the rules promulgated by the
11 Secretary of State for the installation of ignition
12 interlock devices. Under this condition the court may allow
13 a defendant who is not self-employed to operate a vehicle
14 owned by the defendant's employer that is not equipped with
15 an ignition interlock device in the course and scope of the
16 defendant's employment;

17 (15) Comply with the terms and conditions of an order
18 of protection issued by the court under the Illinois
19 Domestic Violence Act of 1986 or an order of protection
20 issued by the court of another state, tribe, or United
21 States territory;

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

24 (17) Such other reasonable conditions as the court may
25 impose.

26 (c) When a person is charged with an offense under Section

1 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of
2 1961", involving a victim who is a minor under 18 years of age
3 living in the same household with the defendant at the time of
4 the offense, in granting bail or releasing the defendant on his
5 own recognizance, the judge shall impose conditions to restrict
6 the defendant's access to the victim which may include, but are
7 not limited to conditions that he will:

8 1. Vacate the Household.

9 2. Make payment of temporary support to his dependents.

10 3. Refrain from contact or communication with the child
11 victim, except as ordered by the court.

12 (d) When a person is charged with a criminal offense and
13 the victim is a family or household member as defined in
14 Article 112A, conditions shall be imposed at the time of the
15 defendant's release on bond that restrict the defendant's
16 access to the victim. Unless provided otherwise by the court,
17 the restrictions shall include requirements that the defendant
18 do the following:

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

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

25 (e) Local law enforcement agencies shall develop
26 standardized bond forms for use in cases involving family or

1 household members as defined in Article 112A, including
2 specific conditions of bond as provided in subsection (d).
3 Failure of any law enforcement department to develop or use
4 those forms shall in no way limit the applicability and
5 enforcement of subsections (d) and (f).

6 (f) If the defendant is admitted to bail after conviction
7 the conditions of the bail bond shall be that he will, in
8 addition to the conditions set forth in subsections (a) and (b)
9 hereof:

10 (1) Duly prosecute his appeal;

11 (2) Appear at such time and place as the court may
12 direct;

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

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

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

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

24 (Source: P.A. 94-556, eff. 9-11-05; 94-590, eff. 1-1-06;
25 95-331, eff. 8-21-07.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.