



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB5441

Introduced 2/13/2026, by Rep. Jackie Haas

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-6.1	from Ch. 38, par. 110-6.1
725 ILCS 5/111-2.5 new	
725 ILCS 5/114-7	from Ch. 38, par. 114-7
730 ILCS 5/5-4.5-95	

Amends the Code of Criminal Procedure of 1963. Provides that if a person has 2 or more pending misdemeanor charges involving a firearm or 4 or more pending Class A misdemeanor charges, the defendant may be charged as a habitual misdemeanor offender. Provides that the provision does not apply unless each of the following requirements are satisfied: (1) the third offense occurred after the second offense; (2) the second offense occurred after the first offense; and (3) all of the charged offenses must be proved at trial in order for the person to be adjudged a habitual misdemeanor offender. Provides that the charges alleged do not have to be for the same offense. Provides that any offense that results from or is connected with the same transaction, or results from an offense committed at the same time, shall be counted for the purposes of this provision as one offense. Provides that a habitual misdemeanor offender shall be sentenced as a Class 4 felony offender for which the person shall be sentenced to a term of imprisonment of not less than one year and not more than 3 years. Provides that the court may deny pretrial release to a person charged as a habitual misdemeanor offender. Amends the Unified Code of Corrections to make conforming changes.

LRB104 17850 RLC 31284 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 110-6.1 and 114-7 and by adding
6 Section 111-2.5 as follows:

7 (725 ILCS 5/110-6.1) (from Ch. 38, par. 110-6.1)

8 Sec. 110-6.1. Denial of pretrial release.

9 (a) Upon verified petition by the State, the court shall
10 hold a hearing and may deny a defendant pretrial release only
11 if:

12 (1) the defendant is charged with a felony offense
13 other than a forcible felony for which, based on the
14 charge or the defendant's criminal history, a sentence of
15 imprisonment, without probation, periodic imprisonment, or
16 conditional discharge, is required by law upon conviction,
17 and it is alleged that the defendant's pretrial release
18 poses a real and present threat to the safety of any person
19 or persons or the community, based on the specific
20 articulable facts of the case;

21 (1.5) the defendant's pretrial release poses a real
22 and present threat to the safety of any person or persons
23 or the community, based on the specific articulable facts

1 of the case, and the defendant is charged with a forcible
2 felony, which as used in this Section, means treason,
3 first degree murder, second degree murder, predatory
4 criminal sexual assault of a child, aggravated criminal
5 sexual assault, criminal sexual assault, armed robbery,
6 aggravated robbery, robbery, burglary where there is use
7 of force against another person, residential burglary,
8 home invasion, vehicular invasion, aggravated arson,
9 arson, aggravated kidnaping, kidnaping, aggravated battery
10 resulting in great bodily harm or permanent disability or
11 disfigurement, or any other felony which involves the
12 threat of or infliction of great bodily harm or permanent
13 disability or disfigurement;

14 (2) the defendant is charged with stalking or
15 aggravated stalking, and it is alleged that the
16 defendant's pre-trial release poses a real and present
17 threat to the safety of a victim of the alleged offense,
18 and denial of release is necessary to prevent fulfillment
19 of the threat upon which the charge is based;

20 (3) the defendant is charged with a violation of an
21 order of protection issued under Section 112A-14 of this
22 Code or Section 214 of the Illinois Domestic Violence Act
23 of 1986, a stalking no contact order under Section 80 of
24 the Stalking No Contact Order Act, or a civil no contact
25 order under Section 213 of the Civil No Contact Order Act,
26 and it is alleged that the defendant's pretrial release

1 poses a real and present threat to the safety of any person
2 or persons or the community, based on the specific
3 articulable facts of the case;

4 (4) the defendant is charged with domestic battery or
5 aggravated domestic battery under Section 12-3.2 or 12-3.3
6 of the Criminal Code of 2012 and it is alleged that the
7 defendant's pretrial release poses a real and present
8 threat to the safety of any person or persons or the
9 community, based on the specific articulable facts of the
10 case;

11 (5) the defendant is charged with any offense under
12 Article 11 of the Criminal Code of 2012, except for
13 Sections 11-14, 11-14.1, 11-18, 11-20, 11-30, 11-35,
14 11-40, and 11-45 of the Criminal Code of 2012, or similar
15 provisions of the Criminal Code of 1961 and it is alleged
16 that the defendant's pretrial release poses a real and
17 present threat to the safety of any person or persons or
18 the community, based on the specific articulable facts of
19 the case;

20 (6) the defendant is charged with any of the following
21 offenses under the Criminal Code of 2012, and it is
22 alleged that the defendant's pretrial release poses a real
23 and present threat to the safety of any person or persons
24 or the community, based on the specific articulable facts
25 of the case:

26 (A) Section 24-1.2 (aggravated discharge of a

1 firearm);

2 (B) Section 24-1.2-5 (aggravated discharge of a
3 machine gun or a firearm equipped with a device
4 designed or used for silencing the report of a
5 firearm);

6 (C) Section 24-1.5 (reckless discharge of a
7 firearm);

8 (D) Section 24-1.7 (unlawful possession of a
9 firearm by a repeat felony offender);

10 (E) Section 24-2.2 (manufacture, sale, or transfer
11 of bullets or shells represented to be armor piercing
12 bullets, dragon's breath shotgun shells, bolo shells,
13 or flechette shells);

14 (F) Section 24-3 (unlawful sale or delivery of
15 firearms);

16 (G) Section 24-3.3 (unlawful sale or delivery of
17 firearms on the premises of any school);

18 (H) Section 24-34 (unlawful sale of firearms by
19 liquor license);

20 (I) Section 24-3.5 (unlawful purchase of a
21 firearm);

22 (J) Section 24-3A (gunrunning);

23 (K) Section 24-3B (firearms trafficking);

24 (L) Section 10-9 (b) (involuntary servitude);

25 (M) Section 10-9 (c) (involuntary sexual servitude
26 of a minor);

1 (N) Section 10-9(d) (trafficking in persons);

2 (O) Non-probationable violations: (i) unlawful
3 possession of weapons by felons or persons in the
4 Custody of the Department of Corrections facilities
5 (Section 24-1.1), (ii) aggravated unlawful possession
6 of a weapon (Section 24-1.6), or (iii) aggravated
7 possession of a stolen firearm (Section 24-3.9);

8 (P) Section 9-3 (reckless homicide and involuntary
9 manslaughter);

10 (Q) Section 19-3 (residential burglary);

11 (R) Section 10-5 (child abduction);

12 (S) Felony violations of Section 12C-5 (child
13 endangerment);

14 (T) Section 12-7.1 (hate crime);

15 (U) Section 10-3.1 (aggravated unlawful
16 restraint);

17 (V) Section 12-9 (threatening a public official);

18 (W) Subdivision (f)(1) of Section 12-3.05
19 (aggravated battery with a deadly weapon other than by
20 discharge of a firearm);

21 (6.5) the defendant is charged with any of the
22 following offenses, and it is alleged that the defendant's
23 pretrial release poses a real and present threat to the
24 safety of any person or persons or the community, based on
25 the specific articulable facts of the case:

26 (A) Felony violations of Sections 3.01, 3.02, or

1 3.03 of the Humane Care for Animals Act (cruel
2 treatment, aggravated cruelty, and animal torture);

3 (B) Subdivision (d) (1) (B) of Section 11-501 of the
4 Illinois Vehicle Code (aggravated driving under the
5 influence while operating a school bus with
6 passengers);

7 (C) Subdivision (d) (1) (C) of Section 11-501 of the
8 Illinois Vehicle Code (aggravated driving under the
9 influence causing great bodily harm);

10 (D) Subdivision (d) (1) (D) of Section 11-501 of the
11 Illinois Vehicle Code (aggravated driving under the
12 influence after a previous reckless homicide
13 conviction);

14 (E) Subdivision (d) (1) (F) of Section 11-501 of the
15 Illinois Vehicle Code (aggravated driving under the
16 influence leading to death); or

17 (F) Subdivision (d) (1) (J) of Section 11-501 of the
18 Illinois Vehicle Code (aggravated driving under the
19 influence that resulted in bodily harm to a child
20 under the age of 16);

21 (7) the defendant is charged with an attempt to commit
22 any charge listed in paragraphs (1) through (6.5), and it
23 is alleged that the defendant's pretrial release poses a
24 real and present threat to the safety of any person or
25 persons or the community, based on the specific
26 articulable facts of the case; ~~or~~

1 (8) the person has a high likelihood of willful flight
2 to avoid prosecution and is charged with:

3 (A) Any felony described in subdivisions (a)(1)
4 through (a)(7) of this Section; or

5 (B) A felony offense other than a Class 4 offense;
6 or -

7 (9) the defendant is charged as a habitual
8 misdemeanant offender.

9 (b) If the charged offense is a felony, as part of the
10 detention hearing, the court shall determine whether there is
11 probable cause the defendant has committed an offense, unless
12 a hearing pursuant to Section 109-3 of this Code has already
13 been held or a grand jury has returned a true bill of
14 indictment against the defendant. If there is a finding of no
15 probable cause, the defendant shall be released. No such
16 finding is necessary if the defendant is charged with a
17 misdemeanor.

18 (c) Timing of petition.

19 (1) A petition may be filed without prior notice to
20 the defendant at the first appearance before a judge, or
21 within the 21 calendar days, except as provided in Section
22 110-6, after arrest and release of the defendant upon
23 reasonable notice to defendant; provided that while such
24 petition is pending before the court, the defendant if
25 previously released shall not be detained.

26 (2) Upon filing, the court shall immediately hold a

1 hearing on the petition unless a continuance is requested.
2 If a continuance is requested and granted, the hearing
3 shall be held within 48 hours of the defendant's first
4 appearance if the defendant is charged with first degree
5 murder or a Class X, Class 1, Class 2, or Class 3 felony,
6 and within 24 hours if the defendant is charged with a
7 Class 4 or misdemeanor offense. The Court may deny or
8 grant the request for continuance. If the court decides to
9 grant the continuance, the Court retains the discretion to
10 detain or release the defendant in the time between the
11 filing of the petition and the hearing.

12 (d) Contents of petition.

13 (1) The petition shall be verified by the State and
14 shall state the grounds upon which it contends the
15 defendant should be denied pretrial release, including the
16 real and present threat to the safety of any person or
17 persons or the community, based on the specific
18 articulable facts or flight risk, as appropriate.

19 (2) If the State seeks to file a second or subsequent
20 petition under this Section, the State shall be required
21 to present a verified application setting forth in detail
22 any new facts not known or obtainable at the time of the
23 filing of the previous petition.

24 (e) Eligibility: All defendants shall be presumed eligible
25 for pretrial release, and the State shall bear the burden of
26 proving by clear and convincing evidence that:

1 (1) the proof is evident or the presumption great that
2 the defendant has committed an offense listed in
3 subsection (a), and

4 (2) for offenses listed in paragraphs (1) through (7)
5 of subsection (a), the defendant poses a real and present
6 threat to the safety of any person or persons or the
7 community, based on the specific articulable facts of the
8 case, by conduct which may include, but is not limited to,
9 a forcible felony, the obstruction of justice,
10 intimidation, injury, or abuse as defined by paragraph (1)
11 of Section 103 of the Illinois Domestic Violence Act of
12 1986, and

13 (3) no condition or combination of conditions set
14 forth in subsection (b) of Section 110-10 of this Article
15 can mitigate (i) the real and present threat to the safety
16 of any person or persons or the community, based on the
17 specific articulable facts of the case, for offenses
18 listed in paragraphs (1) through (7) of subsection (a), or
19 (ii) the defendant's willful flight for offenses listed in
20 paragraph (8) of subsection (a), and

21 (4) for offenses under subsection (b) of Section 407
22 of the Illinois Controlled Substances Act that are subject
23 to paragraph (1) of subsection (a), no condition or
24 combination of conditions set forth in subsection (b) of
25 Section 110-10 of this Article can mitigate the real and
26 present threat to the safety of any person or persons or

1 the community, based on the specific articulable facts of
2 the case, and the defendant poses a serious risk to not
3 appear in court as required.

4 (f) Conduct of the hearings.

5 (1) Prior to the hearing, the State shall tender to
6 the defendant copies of the defendant's criminal history
7 available, any written or recorded statements, and the
8 substance of any oral statements made by any person, if
9 relied upon by the State in its petition, and any police
10 reports in the prosecutor's possession at the time of the
11 hearing.

12 (2) The State or defendant may present evidence at the
13 hearing by way of proffer based upon reliable information.

14 (3) The defendant has the right to be represented by
15 counsel, and if he or she is indigent, to have counsel
16 appointed for him or her. The defendant shall have the
17 opportunity to testify, to present witnesses on his or her
18 own behalf, and to cross-examine any witnesses that are
19 called by the State. Defense counsel shall be given
20 adequate opportunity to confer with the defendant before
21 any hearing at which conditions of release or the
22 detention of the defendant are to be considered, with an
23 accommodation for a physical condition made to facilitate
24 attorney/client consultation. If defense counsel needs to
25 confer or consult with the defendant during any hearing
26 conducted via a 2-way audio-visual communication system,

1 such consultation shall not be recorded and shall be
2 undertaken consistent with constitutional protections.

3 (3.5) A hearing at which pretrial release may be
4 denied must be conducted in person (and not by way of 2-way
5 audio visual communication) unless the accused waives the
6 right to be present physically in court, the court
7 determines that the physical health and safety of any
8 person necessary to the proceedings would be endangered by
9 appearing in court, or the chief judge of the circuit
10 orders use of that system due to operational challenges in
11 conducting the hearing in person. Such operational
12 challenges must be documented and approved by the chief
13 judge of the circuit, and a plan to address the challenges
14 through reasonable efforts must be presented and approved
15 by the Administrative Office of the Illinois Courts every
16 6 months.

17 (4) If the defense seeks to compel the complaining
18 witness to testify as a witness in its favor, it shall
19 petition the court for permission. When the ends of
20 justice so require, the court may exercise its discretion
21 and compel the appearance of a complaining witness. The
22 court shall state on the record reasons for granting a
23 defense request to compel the presence of a complaining
24 witness only on the issue of the defendant's pretrial
25 detention. In making a determination under this Section,
26 the court shall state on the record the reason for

1 granting a defense request to compel the presence of a
2 complaining witness, and only grant the request if the
3 court finds by clear and convincing evidence that the
4 defendant will be materially prejudiced if the complaining
5 witness does not appear. Cross-examination of a
6 complaining witness at the pretrial detention hearing for
7 the purpose of impeaching the witness' credibility is
8 insufficient reason to compel the presence of the witness.
9 In deciding whether to compel the appearance of a
10 complaining witness, the court shall be considerate of the
11 emotional and physical well-being of the witness. The
12 pre-trial detention hearing is not to be used for purposes
13 of discovery, and the post arraignment rules of discovery
14 do not apply. The State shall tender to the defendant,
15 prior to the hearing, copies, if any, of the defendant's
16 criminal history, if available, and any written or
17 recorded statements and the substance of any oral
18 statements made by any person, if in the State's
19 Attorney's possession at the time of the hearing.

20 (5) The rules concerning the admissibility of evidence
21 in criminal trials do not apply to the presentation and
22 consideration of information at the hearing. At the trial
23 concerning the offense for which the hearing was conducted
24 neither the finding of the court nor any transcript or
25 other record of the hearing shall be admissible in the
26 State's case-in-chief, but shall be admissible for

1 impeachment, or as provided in Section 115-10.1 of this
2 Code, or in a perjury proceeding.

3 (6) The defendant may not move to suppress evidence or
4 a confession, however, evidence that proof of the charged
5 crime may have been the result of an unlawful search or
6 seizure, or both, or through improper interrogation, is
7 relevant in assessing the weight of the evidence against
8 the defendant.

9 (7) Decisions regarding release, conditions of
10 release, and detention prior to trial must be
11 individualized, and no single factor or standard may be
12 used exclusively to order detention. Risk assessment tools
13 may not be used as the sole basis to deny pretrial release.

14 (g) Factors to be considered in making a determination of
15 dangerousness. The court may, in determining whether the
16 defendant poses a real and present threat to the safety of any
17 person or persons or the community, based on the specific
18 articulable facts of the case, consider, but shall not be
19 limited to, evidence or testimony concerning:

20 (1) The nature and circumstances of any offense
21 charged, including whether the offense is a crime of
22 violence, involving a weapon, or a sex offense.

23 (2) The history and characteristics of the defendant
24 including:

25 (A) Any evidence of the defendant's prior criminal
26 history indicative of violent, abusive, or assaultive

1 behavior, or lack of such behavior. Such evidence may
2 include testimony or documents received in juvenile
3 proceedings, criminal, quasi-criminal, civil
4 commitment, domestic relations, or other proceedings.

5 (B) Any evidence of the defendant's psychological,
6 psychiatric or other similar social history which
7 tends to indicate a violent, abusive, or assaultive
8 nature, or lack of any such history.

9 (3) The identity of any person or persons to whose
10 safety the defendant is believed to pose a threat, and the
11 nature of the threat.

12 (4) Any statements made by, or attributed to the
13 defendant, together with the circumstances surrounding
14 them.

15 (5) The age and physical condition of the defendant.

16 (6) The age and physical condition of any victim or
17 complaining witness.

18 (7) Whether the defendant is known to possess or have
19 access to any weapon or weapons.

20 (8) Whether, at the time of the current offense or any
21 other offense or arrest, the defendant was on probation,
22 parole, aftercare release, mandatory supervised release,
23 or other release from custody pending trial, sentencing,
24 appeal, or completion of sentence for an offense under
25 federal or State law.

26 (9) Any other factors, including those listed in

1 Section 110-5 of this Article deemed by the court to have a
2 reasonable bearing upon the defendant's propensity or
3 reputation for violent, abusive, or assaultive behavior,
4 or lack of such behavior.

5 (h) Detention order. The court shall, in any order for
6 detention:

7 (1) make a written finding summarizing the court's
8 reasons for concluding that the defendant should be denied
9 pretrial release, including why less restrictive
10 conditions would not avoid a real and present threat to
11 the safety of any person or persons or the community,
12 based on the specific articulable facts of the case, or
13 prevent the defendant's willful flight from prosecution;

14 (2) direct that the defendant be committed to the
15 custody of the sheriff for confinement in the county jail
16 pending trial;

17 (3) direct that the defendant be given a reasonable
18 opportunity for private consultation with counsel, and for
19 communication with others of his or her choice by
20 visitation, mail and telephone; and

21 (4) direct that the sheriff deliver the defendant as
22 required for appearances in connection with court
23 proceedings.

24 (i) Detention. If the court enters an order for the
25 detention of the defendant pursuant to subsection (e) of this
26 Section, the defendant shall be brought to trial on the

1 offense for which he is detained within 90 days after the date
2 on which the order for detention was entered. If the defendant
3 is not brought to trial within the 90-day period required by
4 the preceding sentence, he shall not be denied pretrial
5 release. In computing the 90-day period, the court shall omit
6 any period of delay resulting from a continuance granted at
7 the request of the defendant and any period of delay resulting
8 from a continuance granted at the request of the State with
9 good cause shown pursuant to Section 103-5.

10 (i-5) At each subsequent appearance of the defendant
11 before the court, the judge must find that continued detention
12 is necessary to avoid a real and present threat to the safety
13 of any person or persons or the community, based on the
14 specific articulable facts of the case, or to prevent the
15 defendant's willful flight from prosecution.

16 (j) Rights of the defendant. The defendant shall be
17 entitled to appeal any order entered under this Section
18 denying his or her pretrial release.

19 (k) Appeal. The State may appeal any order entered under
20 this Section denying any motion for denial of pretrial
21 release.

22 (l) Presumption of innocence. Nothing in this Section
23 shall be construed as modifying or limiting in any way the
24 defendant's presumption of innocence in further criminal
25 proceedings.

26 (m) Interest of victims.

1 (1) Crime victims shall be given notice by the State's
2 Attorney's office of this hearing as required in paragraph
3 (1) of subsection (b) of Section 4.5 of the Rights of Crime
4 Victims and Witnesses Act and shall be informed of their
5 opportunity at this hearing to obtain a protective order.

6 (2) If the defendant is denied pretrial release, the
7 court may impose a no contact provision with the victim or
8 other interested party that shall be enforced while the
9 defendant remains in custody.

10 (Source: P.A. 103-822, eff. 1-1-25; 104-417, eff. 8-15-25.)

11 (725 ILCS 5/111-2.5 new)

12 Sec. 111-2.5. Habitual misdemeanor offender; charges.

13 (a) If a person has 2 or more pending misdemeanor charges
14 involving a firearm or 4 or more pending Class A misdemeanor
15 charges, the defendant may be charged as a habitual
16 misdemeanant offender.

17 (b) The charges alleged do not have to be for the same
18 offense. Any offense that results from or is connected with
19 the same transaction, or results from an offense committed at
20 the same time, shall be counted for the purposes of this
21 Section as one offense.

22 (c) This Section does not apply unless each of the
23 following requirements are satisfied:

24 (1) The third offense occurred after the second
25 offense.

1 (2) The second offense occurred after the first
2 offense.

3 (3) All of the charged offenses must be proved at
4 trial in order for the person to be adjudged a habitual
5 misdemeanant offender.

6 (d) Once a person has been adjudged a habitual
7 misdemeanant offender, the person shall be charged as a Class
8 4 felony.

9 (e) All of the charged offenses must be proved at trial in
10 order for the person to be adjudged a habitual misdemeanant
11 offender.

12 (f) Sentence. A habitual misdemeanant offender shall be
13 sentenced as a Class 4 felony offender for which the person
14 shall be sentenced to a term of imprisonment of not less than
15 one year and not more than 3 years.

16 (725 ILCS 5/114-7) (from Ch. 38, par. 114-7)

17 Sec. 114-7. Joinder of related prosecutions.

18 The court may order 2 or more charges to be tried together
19 if the offenses and the defendants could have been joined in a
20 single charge. If a person is charged as a habitual
21 misdemeanant offender, all charges needed to adjudicate the
22 defendant as a habitual misdemeanant offender shall be tried
23 together. The procedure shall be the same as if the
24 prosecution were under a single charge.

25 (Source: Laws 1963, p. 2836.)

1 Section 10. The Unified Code of Corrections is amended by
2 changing Section 5-4.5-95 as follows:

3 (730 ILCS 5/5-4.5-95)

4 Sec. 5-4.5-95. GENERAL RECIDIVISM PROVISIONS.

5 (a) HABITUAL CRIMINALS.

6 (1) Every person who has been twice convicted in any
7 state or federal court of an offense that contains the
8 same elements as an offense now (the date of the offense
9 committed after the 2 prior convictions) classified in
10 Illinois as a Class X felony, criminal sexual assault,
11 aggravated kidnapping, or first degree murder, and who is
12 thereafter convicted of a Class X felony, criminal sexual
13 assault, or first degree murder, committed after the 2
14 prior convictions, shall be adjudged an habitual criminal.

15 (2) The 2 prior convictions need not have been for the
16 same offense.

17 (3) Any convictions that result from or are connected
18 with the same transaction, or result from offenses
19 committed at the same time, shall be counted for the
20 purposes of this Section as one conviction.

21 (4) This Section does not apply unless each of the
22 following requirements are satisfied:

23 (A) The third offense was committed after July 3,
24 1980.

1 (B) The third offense was committed within 20
2 years of the date that judgment was entered on the
3 first conviction; provided, however, that time spent
4 in custody shall not be counted.

5 (C) The third offense was committed after
6 conviction on the second offense.

7 (D) The second offense was committed after
8 conviction on the first offense.

9 (E) The first offense was committed when the
10 person was 21 years of age or older.

11 (5) Anyone who is adjudged an habitual criminal shall
12 be sentenced to a term of natural life imprisonment.

13 (6) A prior conviction shall not be alleged in the
14 indictment, and no evidence or other disclosure of that
15 conviction shall be presented to the court or the jury
16 during the trial of an offense set forth in this Section
17 unless otherwise permitted by the issues properly raised
18 in that trial. After a plea or verdict or finding of guilty
19 and before sentence is imposed, the prosecutor may file
20 with the court a verified written statement signed by the
21 State's Attorney concerning any former conviction of an
22 offense set forth in this Section rendered against the
23 defendant. The court shall then cause the defendant to be
24 brought before it; shall inform the defendant of the
25 allegations of the statement so filed, and of his or her
26 right to a hearing before the court on the issue of that

1 former conviction and of his or her right to counsel at
2 that hearing; and unless the defendant admits such
3 conviction, shall hear and determine the issue, and shall
4 make a written finding thereon. If a sentence has
5 previously been imposed, the court may vacate that
6 sentence and impose a new sentence in accordance with this
7 Section.

8 (7) A duly authenticated copy of the record of any
9 alleged former conviction of an offense set forth in this
10 Section shall be prima facie evidence of that former
11 conviction; and a duly authenticated copy of the record of
12 the defendant's final release or discharge from probation
13 granted, or from sentence and parole supervision (if any)
14 imposed pursuant to that former conviction, shall be prima
15 facie evidence of that release or discharge.

16 (8) Any claim that a previous conviction offered by
17 the prosecution is not a former conviction of an offense
18 set forth in this Section because of the existence of any
19 exceptions described in this Section, is waived unless
20 duly raised at the hearing on that conviction, or unless
21 the prosecution's proof shows the existence of the
22 exceptions described in this Section.

23 (9) If the person so convicted shows to the
24 satisfaction of the court before whom that conviction was
25 had that he or she was released from imprisonment, upon
26 either of the sentences upon a pardon granted for the

1 reason that he or she was innocent, that conviction and
2 sentence shall not be considered under this Section.

3 (b) When a defendant, over the age of 21 years, is
4 convicted of a Class 1 or Class 2 forcible felony after having
5 twice been convicted in any state or federal court of an
6 offense that contains the same elements as an offense now (the
7 date the Class 1 or Class 2 forcible felony was committed)
8 classified in Illinois as a Class 2 or greater Class forcible
9 felony and those charges are separately brought and tried and
10 arise out of different series of acts, that defendant shall be
11 sentenced as a Class X offender. This subsection does not
12 apply unless:

13 (1) the first forcible felony was committed after
14 February 1, 1978 (the effective date of Public Act
15 80-1099);

16 (2) the second forcible felony was committed after
17 conviction on the first;

18 (3) the third forcible felony was committed after
19 conviction on the second; and

20 (4) the first offense was committed when the person
21 was 21 years of age or older.

22 (c) (Blank).

23 A person sentenced as a Class X offender under this
24 subsection (b) is not eligible to apply for treatment as a
25 condition of probation as provided by Section 40-10 of the
26 Substance Use Disorder Act (20 ILCS 301/40-10).

1 (d) A habitual misdemeanor offender as described in
2 Section 111-2.5 of the Code of Criminal Procedure of 1963
3 shall be sentenced as a Class 4 felony offender for which the
4 person shall be sentenced to a term of imprisonment of not less
5 than one year and not more than 3 years.

6 (Source: P.A. 100-3, eff. 1-1-18; 100-759, eff. 1-1-19;
7 101-652, eff. 7-1-21.)

8 Section 95. No acceleration or delay. Where this Act makes
9 changes in a statute that is represented in this Act by text
10 that is not yet or no longer in effect (for example, a Section
11 represented by multiple versions), the use of that text does
12 not accelerate or delay the taking effect of (i) the changes
13 made by this Act or (ii) provisions derived from any other
14 Public Act.