

SB2380



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2380

Introduced 2/7/2025, by Sen. John F. Curran

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-2	from Ch. 38, par. 110-2
725 ILCS 5/110-6.1	from Ch. 38, par. 110-6.1

Amends the Code of Criminal Procedure of 1963. Provides that notwithstanding the pretrial release and denial of pretrial release provisions of the Code, if the defendant is charged with any of the following offenses, then the burden is on the defendant to show by clear and convincing evidence that the defendant's pretrial release does not pose a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case: (1) a violation of an order of protection issued under the Code or the Illinois Domestic Violence Act of 1986, a stalking no contact order under the Stalking No Contact Order Act, or of a civil no contact order under the Civil No Contact Order Act; or (2) domestic battery or aggravated domestic battery under the Criminal Code of 2012.

LRB104 03946 RLC 13970 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 Sections 110-2 and 110-6.1 as follows:

6 (725 ILCS 5/110-2) (from Ch. 38, par. 110-2)
7 Sec. 110-2. Pretrial release.

8 (a) All persons charged with an offense shall be eligible
9 for pretrial release before conviction. It is presumed that a
10 defendant is entitled to release on personal recognizance on
11 the condition that the defendant attend all required court
12 proceedings and the defendant does not commit any criminal
13 offense, and complies with all terms of pretrial release,
14 including, but not limited to, orders of protection under both
15 Section 112A-4 of this Code and Section 214 of the Illinois
16 Domestic Violence Act of 1986, all civil no contact orders,
17 and all stalking no contact orders. Pretrial release may be
18 denied only if a person is charged with an offense listed in
19 Section 110-6.1 and after the court has held a hearing under
20 Section 110-6.1, and in a manner consistent with subsections
21 (b), (c), and (d) of this Section.

22 (b) At all pretrial hearings, the prosecution shall have
23 the burden to prove by clear and convincing evidence that any

1 condition of release is necessary.

2 (c) When it is alleged that pretrial release should be
3 denied to a person upon the grounds that the person presents a
4 real and present threat to the safety of any person or persons
5 or the community, based on the specific articulable facts of
6 the case, the burden of proof of such allegations shall be upon
7 the State.

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

12 (e) This Section shall be liberally construed to
13 effectuate the purpose of relying on pretrial release by
14 nonmonetary means to reasonably ensure an eligible person's
15 appearance in court, the protection of the safety of any other
16 person or the community, that the person will not attempt or
17 obstruct the criminal justice process, and the person's
18 compliance with all conditions of release, while authorizing
19 the court, upon motion of a prosecutor, to order pretrial
20 detention of the person under Section 110-6.1 when it finds
21 clear and convincing evidence that no condition or combination
22 of conditions can reasonably ensure the effectuation of these
23 goals.

24 (e-1) Notwithstanding the other provisions of this
25 Section, if the defendant is charged with any of the following
26 offenses, then the burden is on the defendant to show by clear

1 and convincing evidence that the defendant's pretrial release
2 does not pose a real and present threat to the safety of any
3 person or persons or the community, based on the specific
4 articulable facts of the case:

5 (1) a violation of an order of protection issued under
6 Section 112A-14 of this Code or Section 214 of the
7 Illinois Domestic Violence Act of 1986, a stalking no
8 contact order under Section 80 of the Stalking No Contact
9 Order Act, or of a civil no contact order under Section 213
10 of the Civil No Contact Order Act; or

11 (2) domestic battery or aggravated domestic battery
12 under Section 12-3.2 or 12-3.3 of the Criminal Code of
13 2012.

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

15 (725 ILCS 5/110-6.1) (from Ch. 38, par. 110-6.1)

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

17 (a) Upon verified petition by the State, the court shall
18 hold a hearing and may deny a defendant pretrial release only
19 if:

20 (1) the defendant is charged with a felony offense
21 other than a forcible felony for which, based on the
22 charge or the defendant's criminal history, a sentence of
23 imprisonment, without probation, periodic imprisonment, or
24 conditional discharge, is required by law upon conviction,
25 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 (1.5) the defendant's pretrial release poses a real
5 and present threat to the safety of any person or persons
6 or the community, based on the specific articulable facts
7 of the case, and the defendant is charged with a forcible
8 felony, which as used in this Section, means treason,
9 first degree murder, second degree murder, predatory
10 criminal sexual assault of a child, aggravated criminal
11 sexual assault, criminal sexual assault, armed robbery,
12 aggravated robbery, robbery, burglary where there is use
13 of force against another person, residential burglary,
14 home invasion, vehicular invasion, aggravated arson,
15 arson, aggravated kidnaping, kidnaping, aggravated battery
16 resulting in great bodily harm or permanent disability or
17 disfigurement, or any other felony which involves the
18 threat of or infliction of great bodily harm or permanent
19 disability or disfigurement;

20 (2) the defendant is charged with stalking or
21 aggravated stalking, and it is alleged that the
22 defendant's pre-trial release poses a real and present
23 threat to the safety of a victim of the alleged offense,
24 and denial of release is necessary to prevent fulfillment
25 of the threat upon which the charge is based;

26 (3) the defendant is charged with a violation of an

1 order of protection issued under Section 112A-14 of this
2 Code or Section 214 of the Illinois Domestic Violence Act
3 of 1986, a stalking no contact order under Section 80 of
4 the Stalking No Contact Order Act, or ~~of~~ a civil no contact
5 order under Section 213 of the Civil No Contact Order Act,
6 and it is alleged that the defendant's pretrial release
7 poses a real and present threat to the safety of any person
8 or persons or the community, based on the specific
9 articulable facts of the case;

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

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

26 (6) the defendant is charged with any of the following

1 offenses under the Criminal Code of 2012, and it is
2 alleged that the defendant's pretrial release poses a real
3 and present threat to the safety of any person or persons
4 or the community, based on the specific articulable facts
5 of the case:

6 (A) Section 24-1.2 (aggravated discharge of a
7 firearm);

8 (B) Section 24-1.2-5 ~~24-2.5~~ (aggravated discharge
9 of a machine gun or a firearm equipped with a device
10 designed or used ~~use~~ for silencing the report of a
11 firearm);

12 (C) Section 24-1.5 (reckless discharge of a
13 firearm);

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

16 (E) Section 24-2.2 (manufacture, sale, or transfer
17 of bullets or shells represented to be armor piercing
18 bullets, dragon's breath shotgun shells, bolo shells,
19 or flechette shells);

20 (F) Section 24-3 (unlawful sale or delivery of
21 firearms);

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

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

26 (I) Section 24-3.5 (unlawful purchase of a

1 firearm);

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

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

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

5 (M) Section 10-9 (c) (involuntary sexual servitude

6 of a minor);

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

8 (O) Non-probationable violations: (i) unlawful

9 possession of weapons by felons or persons in the

10 Custody of the Department of Corrections facilities

11 (Section 24-1.1), (ii) aggravated unlawful possession

12 of a weapon (Section 24-1.6), or (iii) aggravated

13 possession of a stolen firearm (Section 24-3.9);

14 (P) Section 9-3 (reckless homicide and involuntary

15 manslaughter);

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

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

18 (S) Felony violations of Section 12C-5 (child

19 endangerment);

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

21 (U) Section 10-3.1 (aggravated unlawful

22 restraint);

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

24 (W) Subdivision (f)(1) of Section 12-3.05

25 (aggravated battery with a deadly weapon other than by

26 discharge of a firearm);

1 (6.5) the defendant is charged with any of the
2 following offenses, and it is alleged that the defendant's
3 pretrial release poses a real and present threat to the
4 safety of any person or persons or the community, based on
5 the specific articulable facts of the case:

6 (A) Felony violations of Sections 3.01, 3.02, or
7 3.03 of the Humane Care for Animals Act (cruel
8 treatment, aggravated cruelty, and animal torture);

9 (B) Subdivision (d) (1) (B) of Section 11-501 of the
10 Illinois Vehicle Code (aggravated driving under the
11 influence while operating a school bus with
12 passengers);

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

16 (D) Subdivision (d) (1) (D) of Section 11-501 of the
17 Illinois Vehicle Code (aggravated driving under the
18 influence after a previous reckless homicide
19 conviction);

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

23 (F) Subdivision (d) (1) (J) of Section 11-501 of the
24 Illinois Vehicle Code (aggravated driving under the
25 influence that resulted in bodily harm to a child
26 under the age of 16);

1 (7) the defendant is charged with an attempt to commit
2 any charge listed in paragraphs (1) through (6.5), and it
3 is alleged that the defendant's pretrial release poses a
4 real and present threat to the safety of any person or
5 persons or the community, based on the specific
6 articulable facts of the case; or

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

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

11 (B) A felony offense other than a Class 4 offense.

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

21 (c) Timing of petition.

22 (1) A petition may be filed without prior notice to
23 the defendant at the first appearance before a judge, or
24 within the 21 calendar days, except as provided in Section
25 110-6, after arrest and release of the defendant upon
26 reasonable notice to defendant; provided that while such

1 petition is pending before the court, the defendant if
2 previously released shall not be detained.

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

15 (d) Contents of petition.

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

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

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

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

7 (2) for offenses listed in paragraphs (1) through (7)
8 of subsection (a), the defendant poses a real and present
9 threat to the safety of any person or persons or the
10 community, based on the specific articulable facts of the
11 case, by conduct which may include, but is not limited to,
12 a forcible felony, the obstruction of justice,
13 intimidation, injury, or abuse as defined by paragraph (1)
14 of Section 103 of the Illinois Domestic Violence Act of
15 1986, and

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

24 (4) for offenses under subsection (b) of Section 407
25 of the Illinois Controlled Substances Act that are subject
26 to paragraph (1) of subsection (a), no condition or

1 combination of conditions set forth in subsection (b) of
2 Section 110-10 of this Article can mitigate the real and
3 present threat to the safety of any person or persons or
4 the community, based on the specific articulable facts of
5 the case, and the defendant poses a serious risk to not
6 appear in court as required.

7 (e-1) Notwithstanding the provisions of subsection (e), if
8 the defendant is charged with any of the following offenses,
9 then the burden is on the defendant to show by clear and
10 convincing evidence that the defendant's pretrial release does
11 not pose a real and present threat to the safety of any person
12 or persons or the community, based on the specific articulable
13 facts of the case:

14 (1) a violation of an order of protection issued under
15 Section 112A-14 of this Code or Section 214 of the
16 Illinois Domestic Violence Act of 1986, a stalking no
17 contact order under Section 80 of the Stalking No Contact
18 Order Act, or of a civil no contact order under Section 213
19 of the Civil No Contact Order Act; or

20 (2) domestic battery or aggravated domestic battery
21 under Section 12-3.2 or 12-3.3 of the Criminal Code of
22 2012.

23 (f) Conduct of the hearings.

24 (1) Prior to the hearing, the State shall tender to
25 the defendant copies of the defendant's criminal history
26 available, any written or recorded statements, and the

1 substance of any oral statements made by any person, if
2 relied upon by the State in its petition, and any police
3 reports in the prosecutor's possession at the time of the
4 hearing.

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

7 (3) The defendant has the right to be represented by
8 counsel, and if he or she is indigent, to have counsel
9 appointed for him or her. The defendant shall have the
10 opportunity to testify, to present witnesses on his or her
11 own behalf, and to cross-examine any witnesses that are
12 called by the State. Defense counsel shall be given
13 adequate opportunity to confer with the defendant before
14 any hearing at which conditions of release or the
15 detention of the defendant are to be considered, with an
16 accommodation for a physical condition made to facilitate
17 attorney/client consultation. If defense counsel needs to
18 confer or consult with the defendant during any hearing
19 conducted via a 2-way ~~two-way~~ audio-visual communication
20 system, such consultation shall not be recorded and shall
21 be undertaken consistent with constitutional protections.

22 (3.5) A hearing at which pretrial release may be
23 denied must be conducted in person (and not by way of 2-way
24 ~~two-way~~ audio visual communication) unless the accused
25 waives the right to be present physically in court, the
26 court determines that the physical health and safety of

1 any person necessary to the proceedings would be
2 endangered by appearing in court, or the chief judge of
3 the circuit orders use of that system due to operational
4 challenges in conducting the hearing in person. Such
5 operational challenges must be documented and approved by
6 the chief judge of the circuit, and a plan to address the
7 challenges through reasonable efforts must be presented
8 and approved by the Administrative Office of the Illinois
9 Courts every 6 months.

10 (4) If the defense seeks to compel the complaining
11 witness to testify as a witness in its favor, it shall
12 petition the court for permission. When the ends of
13 justice so require, the court may exercise its discretion
14 and compel the appearance of a complaining witness. The
15 court shall state on the record reasons for granting a
16 defense request to compel the presence of a complaining
17 witness only on the issue of the defendant's pretrial
18 detention. In making a determination under this Section,
19 the court shall state on the record the reason for
20 granting a defense request to compel the presence of a
21 complaining witness, and only grant the request if the
22 court finds by clear and convincing evidence that the
23 defendant will be materially prejudiced if the complaining
24 witness does not appear. Cross-examination of a
25 complaining witness at the pretrial detention hearing for
26 the purpose of impeaching the witness' credibility is

1 insufficient reason to compel the presence of the witness.
2 In deciding whether to compel the appearance of a
3 complaining witness, the court shall be considerate of the
4 emotional and physical well-being of the witness. The
5 pre-trial detention hearing is not to be used for purposes
6 of discovery, and the post arraignment rules of discovery
7 do not apply. The State shall tender to the defendant,
8 prior to the hearing, copies, if any, of the defendant's
9 criminal history, if available, and any written or
10 recorded statements and the substance of any oral
11 statements made by any person, if in the State's
12 Attorney's possession at the time of the hearing.

13 (5) The rules concerning the admissibility of evidence
14 in criminal trials do not apply to the presentation and
15 consideration of information at the hearing. At the trial
16 concerning the offense for which the hearing was conducted
17 neither the finding of the court nor any transcript or
18 other record of the hearing shall be admissible in the
19 State's case-in-chief, but shall be admissible for
20 impeachment, or as provided in Section 115-10.1 of this
21 Code, or in a perjury proceeding.

22 (6) The defendant may not move to suppress evidence or
23 a confession, however, evidence that proof of the charged
24 crime may have been the result of an unlawful search or
25 seizure, or both, or through improper interrogation, is
26 relevant in assessing the weight of the evidence against

1 the defendant.

2 (7) Decisions regarding release, conditions of
3 release, and detention prior to trial must be
4 individualized, and no single factor or standard may be
5 used exclusively to order detention. Risk assessment tools
6 may not be used as the sole basis to deny pretrial release.

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

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

16 (2) The history and characteristics of the defendant
17 including:

18 (A) Any evidence of the defendant's prior criminal
19 history indicative of violent, abusive, or assaultive
20 behavior, or lack of such behavior. Such evidence may
21 include testimony or documents received in juvenile
22 proceedings, criminal, quasi-criminal, civil
23 commitment, domestic relations, or other proceedings.

24 (B) Any evidence of the defendant's psychological,
25 psychiatric or other similar social history which
26 tends to indicate a violent, abusive, or assaultive

1 nature, or lack of any such history.

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

5 (4) Any statements made by, or attributed to the
6 defendant, together with the circumstances surrounding
7 them.

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

9 (6) The age and physical condition of any victim or
10 complaining witness.

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

13 (8) Whether, at the time of the current offense or any
14 other offense or arrest, the defendant was on probation,
15 parole, aftercare release, mandatory supervised release,
16 or other release from custody pending trial, sentencing,
17 appeal, or completion of sentence for an offense under
18 federal or State ~~state~~ law.

19 (9) Any other factors, including those listed in
20 Section 110-5 of this Article deemed by the court to have a
21 reasonable bearing upon the defendant's propensity or
22 reputation for violent, abusive, or assaultive behavior,
23 or lack of such behavior.

24 (h) Detention order. The court shall, in any order for
25 detention:

26 (1) make a written finding summarizing the court's

1 reasons for concluding that the defendant should be denied
2 pretrial release, including why less restrictive
3 conditions would not avoid a real and present threat to
4 the safety of any person or persons or the community,
5 based on the specific articulable facts of the case, or
6 prevent the defendant's willful flight from prosecution;

7 (2) direct that the defendant be committed to the
8 custody of the sheriff for confinement in the county jail
9 pending trial;

10 (3) direct that the defendant be given a reasonable
11 opportunity for private consultation with counsel, and for
12 communication with others of his or her choice by
13 visitation, mail and telephone; and

14 (4) direct that the sheriff deliver the defendant as
15 required for appearances in connection with court
16 proceedings.

17 (i) Detention. If the court enters an order for the
18 detention of the defendant pursuant to subsection (e) of this
19 Section, the defendant shall be brought to trial on the
20 offense for which he is detained within 90 days after the date
21 on which the order for detention was entered. If the defendant
22 is not brought to trial within the 90-day period required by
23 the preceding sentence, he shall not be denied pretrial
24 release. In computing the 90-day period, the court shall omit
25 any period of delay resulting from a continuance granted at
26 the request of the defendant and any period of delay resulting

1 from a continuance granted at the request of the State with
2 good cause shown pursuant to Section 103-5.

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

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

12 (k) Appeal. The State may appeal any order entered under
13 this Section denying any motion for denial of pretrial
14 release.

15 (l) Presumption of innocence. Nothing in this Section
16 shall be construed as modifying or limiting in any way the
17 defendant's presumption of innocence in further criminal
18 proceedings.

19 (m) Interest of victims.

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

25 (2) If the defendant is denied pretrial release, the
26 court may impose a no contact provision with the victim or

1 other interested party that shall be enforced while the
2 defendant remains in custody.

3 (Source: P.A. 102-1104, eff. 1-1-23; 103-822, eff. 1-1-25;
4 revised 10-23-24.)