

# SB3089



## 104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB3089

Introduced 1/29/2026, by Sen. Sue Rezin

### SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-6.1

from Ch. 38, par. 110-6.1

Amends the Code of Criminal Procedure of 1963. Provides that if a continuance is requested and granted for a hearing on pretrial detention, the hearing shall be held within 72 (rather than 48) hours of the defendant's first appearance if the defendant is charged with first degree murder or a Class X, Class 1, Class 2, or Class 3 felony.

LRB104 18934 RLC 32379 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 110-6.1 as follows:

6 (725 ILCS 5/110-6.1) (from Ch. 38, par. 110-6.1)

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

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

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

20 (1.5) the defendant's pretrial release poses a real  
21 and present threat to the safety of any person or persons  
22 or the community, based on the specific articulable facts  
23 of the case, and the defendant is charged with a forcible

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

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

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

1 or persons or the community, based on the specific  
2 articulable facts of the case;

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

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

19 (6) the defendant is charged with any of the following  
20 offenses under the Criminal Code of 2012, and it is  
21 alleged that 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  
24 of the case:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (6.5) the defendant is charged with any of the  
21 following offenses, and it is alleged that the defendant's  
22 pretrial release poses a real and present threat to the  
23 safety of any person or persons or the community, based on  
24 the specific articulable facts of the case:

25 (A) Felony violations of Sections 3.01, 3.02, or  
26 3.03 of the Humane Care for Animals Act (cruel

1 treatment, aggravated cruelty, and animal torture);

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

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

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

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

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

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

26 (8) the person has a high likelihood of willful flight

1 to avoid prosecution and is charged with:

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

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

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

14 (c) Timing of petition.

15 (1) A petition may be filed without prior notice to  
16 the defendant at the first appearance before a judge, or  
17 within the 21 calendar days, except as provided in Section  
18 110-6, after arrest and release of the defendant upon  
19 reasonable notice to defendant; provided that while such  
20 petition is pending before the court, the defendant if  
21 previously released shall not be detained.

22 (2) Upon filing, the court shall immediately hold a  
23 hearing on the petition unless a continuance is requested.  
24 If a continuance is requested and granted, the hearing  
25 shall be held within 72 ~~48~~ hours of the defendant's first  
26 appearance if the defendant is charged with first degree

1 murder or a Class X, Class 1, Class 2, or Class 3 felony,  
2 and within 24 hours if the defendant is charged with a  
3 Class 4 or misdemeanor offense. The Court may deny or  
4 grant the request for continuance. If the court decides to  
5 grant the continuance, the Court retains the discretion to  
6 detain or release the defendant in the time between the  
7 filing of the petition and the hearing.

8 (d) Contents of petition.

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

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

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

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

26 (2) for offenses listed in paragraphs (1) through (7)

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

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

17 (4) for offenses under subsection (b) of Section 407  
18 of the Illinois Controlled Substances Act that are subject  
19 to paragraph (1) of subsection (a), no condition or  
20 combination of conditions set forth in subsection (b) of  
21 Section 110-10 of this Article can mitigate the real and  
22 present threat to the safety of any person or persons or  
23 the community, based on the specific articulable facts of  
24 the case, and the defendant poses a serious risk to not  
25 appear in court as required.

26 (f) Conduct of the hearings.

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

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

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

25           (3.5) A hearing at which pretrial release may be  
26 denied must be conducted in person (and not by way of 2-way

1 audio visual communication) unless the accused waives the  
2 right to be present physically in court, the court  
3 determines that the physical health and safety of any  
4 person necessary to the proceedings would be endangered by  
5 appearing in court, or the chief judge of the circuit  
6 orders use of that system due to operational challenges in  
7 conducting the hearing in person. Such operational  
8 challenges must be documented and approved by the chief  
9 judge of the circuit, and a plan to address the challenges  
10 through reasonable efforts must be presented and approved  
11 by the Administrative Office of the Illinois Courts every  
12 6 months.

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

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

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

25 (6) The defendant may not move to suppress evidence or  
26 a confession, however, evidence that proof of the charged

1 crime may have been the result of an unlawful search or  
2 seizure, or both, or through improper interrogation, is  
3 relevant in assessing the weight of the evidence against  
4 the defendant.

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

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

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

19 (2) The history and characteristics of the defendant  
20 including:

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

1           (B) Any evidence of the defendant's psychological,  
2           psychiatric or other similar social history which  
3           tends to indicate a violent, abusive, or assaultive  
4           nature, or lack of any such history.

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

8           (4) Any statements made by, or attributed to the  
9           defendant, together with the circumstances surrounding  
10          them.

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

12          (6) The age and physical condition of any victim or  
13          complaining witness.

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

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

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

1 (h) Detention order. The court shall, in any order for  
2 detention:

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

10 (2) direct that the defendant be committed to the  
11 custody of the sheriff for confinement in the county jail  
12 pending trial;

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

17 (4) direct that the sheriff deliver the defendant as  
18 required for appearances in connection with court  
19 proceedings.

20 (i) Detention. If the court enters an order for the  
21 detention of the defendant pursuant to subsection (e) of this  
22 Section, the defendant shall be brought to trial on the  
23 offense for which he is detained within 90 days after the date  
24 on which the order for detention was entered. If the defendant  
25 is not brought to trial within the 90-day period required by  
26 the preceding sentence, he shall not be denied pretrial

1 release. In computing the 90-day period, the court shall omit  
2 any period of delay resulting from a continuance granted at  
3 the request of the defendant and any period of delay resulting  
4 from a continuance granted at the request of the State with  
5 good cause shown pursuant to Section 103-5.

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

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

15 (k) Appeal. The State may appeal any order entered under  
16 this Section denying any motion for denial of pretrial  
17 release.

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

22 (m) Interest of victims.

23 (1) Crime victims shall be given notice by the State's  
24 Attorney's office of this hearing as required in paragraph  
25 (1) of subsection (b) of Section 4.5 of the Rights of Crime  
26 Victims and Witnesses Act and shall be informed of their

1 opportunity at this hearing to obtain a protective order.

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

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