

1 AN ACT in relation to 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 110-5 as follows:

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

7 Sec. 110-5. Determining the amount of bail and conditions  
8 of release.

9 (a) In determining the amount of monetary bail or  
10 conditions of release, if any, which will reasonably assure  
11 the appearance of a defendant as required or the safety of  
12 any other person or the community and the likelihood of  
13 compliance by the defendant with all the conditions of bail,  
14 the court shall, on the basis of available information, take  
15 into account such matters as the nature and circumstances of  
16 the offense charged, whether the evidence shows that as part  
17 of the offense there was a use of violence or threatened use  
18 of violence, whether the offense involved corruption of  
19 public officials or employees, whether there was physical  
20 harm or threats of physical harm to any public official,  
21 public employee, judge, prosecutor, juror or witness, senior  
22 citizen, child or handicapped person, whether evidence shows  
23 that during the offense or during the arrest the defendant  
24 possessed or used a firearm, machine gun, explosive or metal  
25 piercing ammunition or explosive bomb device or any military  
26 or paramilitary armament, whether the evidence shows that the  
27 offense committed was related to or in furtherance of the  
28 criminal activities of an organized gang or was motivated by  
29 the defendant's membership in or allegiance to an organized  
30 gang, the condition of the victim, any written statement  
31 submitted by the victim or proffer or representation by the

1 State regarding the impact which the alleged criminal conduct  
2 has had on the victim and the victim's concern, if any, with  
3 further contact with the defendant if released on bail,  
4 whether the offense was based on racial, religious, sexual  
5 orientation or ethnic hatred, the likelihood of the filing of  
6 a greater charge, the likelihood of conviction, the sentence  
7 applicable upon conviction, the weight of the evidence  
8 against such defendant, whether there exists motivation or  
9 ability to flee, whether there is any verification as to  
10 prior residence, education, or family ties in the local  
11 jurisdiction, in another county, state or foreign country,  
12 the defendant's employment, financial resources, character  
13 and mental condition, past conduct, prior use of alias names  
14 or dates of birth, and length of residence in the community,  
15 the consent of the defendant to periodic drug testing in  
16 accordance with Section 110-6.5, whether a foreign national  
17 defendant is lawfully admitted in the United States of  
18 America, whether the government of the foreign national  
19 maintains an extradition treaty with the United States by  
20 which the foreign government will extradite to the United  
21 States its national for a trial for a crime allegedly  
22 committed in the United States, whether the defendant is  
23 currently subject to deportation or exclusion under the  
24 immigration laws of the United States, whether the defendant,  
25 although a United States citizen, is considered under the law  
26 of any foreign state a national of that state for the  
27 purposes of extradition or non-extradition to the United  
28 States, the amount of unrecovered proceeds lost as a result  
29 of the alleged offense, the source of bail funds tendered or  
30 sought to be tendered for bail, whether from the totality of  
31 the court's consideration, the loss of funds posted or sought  
32 to be posted for bail will not deter the defendant from  
33 flight, whether the evidence shows that the defendant is  
34 engaged in significant possession, manufacture, or delivery

1 of a controlled substance or cannabis, either individually or  
2 in consort with others, whether at the time of the offense  
3 charged he was on bond or pre-trial release pending trial,  
4 probation, periodic imprisonment or conditional discharge  
5 pursuant to this Code or the comparable Code of any other  
6 state or federal jurisdiction, whether the defendant is on  
7 bond or pre-trial release pending the imposition or execution  
8 of sentence or appeal of sentence for any offense under the  
9 laws of Illinois or any other state or federal jurisdiction,  
10 whether the defendant is under parole or mandatory supervised  
11 release or work release from the Illinois Department of  
12 Corrections or any penal institution or corrections  
13 department of any state or federal jurisdiction, the  
14 defendant's record of convictions, whether the defendant has  
15 been convicted of a misdemeanor or ordinance offense in  
16 Illinois or similar offense in other state or federal  
17 jurisdiction within the 10 years preceding the current charge  
18 or convicted of a felony in Illinois, whether the defendant  
19 was convicted of an offense in another state or federal  
20 jurisdiction that would be a felony if committed in Illinois  
21 within the 20 years preceding the current charge or has been  
22 convicted of such felony and released from the penitentiary  
23 within 20 years preceding the current charge if a  
24 penitentiary sentence was imposed in Illinois or other state  
25 or federal jurisdiction, the defendant's records of juvenile  
26 adjudication of delinquency in any jurisdiction, any record  
27 of appearance or failure to appear by the defendant at court  
28 proceedings, whether there was flight to avoid arrest or  
29 prosecution, whether the defendant escaped or attempted to  
30 escape to avoid arrest, whether the defendant refused to  
31 identify himself, or whether there was a refusal by the  
32 defendant to be fingerprinted as required by law.  
33 Information used by the court in its findings or stated in or  
34 offered in connection with this Section may be by way of

1 proffer based upon reliable information offered by the State  
2 or defendant. All evidence shall be admissible if it is  
3 relevant and reliable regardless of whether it would be  
4 admissible under the rules of evidence applicable at criminal  
5 trials. If the State presents evidence that the offense  
6 committed by the defendant was related to or in furtherance  
7 of the criminal activities of an organized gang or was  
8 motivated by the defendant's membership in or allegiance to  
9 an organized gang, and if the court determines that the  
10 evidence may be substantiated, the court shall prohibit the  
11 defendant from associating with other members of the  
12 organized gang as a condition of bail or release. For the  
13 purposes of this Section, "organized gang" has the meaning  
14 ascribed to it in Section 10 of the Illinois Streetgang  
15 Terrorism Omnibus Prevention Act.

16 (b) The amount of bail shall be:

17 (1) Sufficient to assure compliance with the  
18 conditions set forth in the bail bond, which shall  
19 include the defendant's current address with a written  
20 admonishment to the defendant that he or she must comply  
21 with the provisions of Section 110-12 regarding any  
22 change in his or her address. The defendant's address  
23 shall at all times remain a matter of public record with  
24 the clerk of the court.

25 (2) Not oppressive.

26 (3) Considerate of the financial ability of the  
27 accused.

28 (4) When a person is charged with a drug related  
29 offense involving possession or delivery of cannabis or  
30 possession or delivery of a controlled substance as  
31 defined in the Cannabis Control Act, as amended, or the  
32 Illinois Controlled Substances Act, as amended, the full  
33 street value of the drugs seized shall be considered.  
34 "Street value" shall be determined by the court on the

1 basis of a proffer by the State based upon reliable  
2 information of a law enforcement official contained in a  
3 written report as to the amount seized and such proffer  
4 may be used by the court as to the current street value  
5 of the smallest unit of the drug seized.

6 (c) When a person is charged with an offense punishable  
7 by fine only the amount of the bail shall not exceed double  
8 the amount of the maximum penalty.

9 (d) When a person has been convicted of an offense and  
10 only a fine has been imposed the amount of the bail shall not  
11 exceed double the amount of the fine.

12 (e) The State may appeal any order granting bail or  
13 setting a given amount for bail.

14 (Source: P.A. 88-677, eff. 12-15-94; 88-679, eff. 7-1-95;  
15 89-235, eff. 8-4-95; 89-377, eff. 8-18-95.)