

1 AMENDMENT TO HOUSE BILL 558

2 AMENDMENT NO. _____. Amend House Bill 558 by replacing
3 the title with the following:

4 "AN ACT in relation to criminal law."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 5. The Criminal Code of 1961 is amended by
8 changing Section 3-7 as follows:

9 (720 ILCS 5/3-7) (from Ch. 38, par. 3-7)

10 Sec. 3-7. Periods excluded from limitation.

11 The period within which a prosecution must be commenced
12 does not include any period in which:

13 (a) The defendant is not usually and publicly resident
14 within this State; or

15 (b) The defendant is a public officer and the offense
16 charged is theft of public funds while in public office; or

17 (c) A prosecution is pending against the defendant for
18 the same conduct, even if the indictment or information which
19 commences the prosecution is quashed or the proceedings
20 thereon are set aside, or are reversed on appeal; or

21 (d) A proceeding or an appeal from a proceeding relating

1 to the quashing or enforcement of a Grand Jury subpoena
2 issued in connection with an investigation of a violation of
3 a criminal law of this State is pending. However, the period
4 within which a prosecution must be commenced includes any
5 period in which the State brings a proceeding or an appeal
6 from a proceeding specified in this subsection (d); or-

7 (e) A material witness is placed on active military duty
8 or leave. In this subsection (e), "material witness"
9 includes, but is not limited to, the arresting officer,
10 occurrence witness, or the alleged victim of the offense.

11 (Source: P.A. 91-231, eff. 1-1-00.)

12 Section 10. The Code of Criminal Procedure of 1963 is
13 amended by changing Section 110-6 as follows:

14 (725 ILCS 5/110-6) (from Ch. 38, par. 110-6)

15 Sec. 110-6. (a) Upon verified application by the State
16 or the defendant or on its own motion the court before which
17 the proceeding is pending may increase or reduce the amount
18 of bail or may alter the conditions of the bail bond or grant
19 bail where it has been previously revoked or denied. If bail
20 has been previously revoked pursuant to subsection (f) of
21 this Section or if bail has been denied to the defendant
22 pursuant to subsection (e) of Section 110-6.1 or subsection
23 (e) of Section 110-6.3, the defendant shall be required to
24 present a verified application setting forth in detail any
25 new facts not known or obtainable at the time of the previous
26 revocation or denial of bail proceedings. If the court
27 grants bail where it has been previously revoked or denied,
28 the court shall state on the record of the proceedings the
29 findings of facts and conclusion of law upon which such order
30 is based.

31 (b) Violation of the conditions of Section 110-10 of
32 this Code or any special conditions of bail as ordered by the

1 court shall constitute grounds for the court to increase the
2 amount of bail, or otherwise alter the conditions of bail,
3 or, where the alleged offense committed on bail is a forcible
4 felony in Illinois or a Class 2 or greater offense under the
5 Controlled Substances Act or Cannabis Control Act, revoke
6 bail pursuant to the appropriate provisions of subsection (e)
7 of this section.

8 (c) Reasonable notice of such application by the
9 defendant shall be given to the State.

10 (d) Reasonable notice of such application by the State
11 shall be given to the defendant, except as provided in
12 subsection (e).

13 (e) Upon verified application by the State stating facts
14 or circumstances constituting a violation or a threatened
15 violation of any of the conditions of the bail bond the court
16 may issue a warrant commanding any peace officer to bring the
17 defendant without unnecessary delay before the court for a
18 hearing on the matters set forth in the application. If the
19 actual court before which the proceeding is pending is absent
20 or otherwise unavailable another court may issue a warrant
21 pursuant to this Section. When the defendant is charged with
22 a felony offense and while free on bail is charged with a
23 subsequent felony offense and is the subject of a proceeding
24 set forth in Section 109-1 or 109-3 of this Code, upon the
25 filing of a verified petition by the State alleging a
26 violation of Section 110-10 (a) (4) of this Code, the court
27 shall without prior notice to the defendant, grant leave to
28 file such application and shall order the transfer of the
29 defendant and the application without unnecessary delay to
30 the court before which the previous felony matter is pending
31 for a hearing as provided in subsection (b) or this
32 subsection of this Section. The defendant shall be held
33 without bond pending transfer to and a hearing before such
34 court. At the conclusion of the hearing based on a violation

1 of the conditions of Section 110-10 of this Code or any
2 special conditions of bail as ordered by the court the court
3 may enter an order increasing the amount of bail or alter the
4 conditions of bail as deemed appropriate.

5 (f) Where the alleged violation consists of the
6 violation of one or more felony statutes of any jurisdiction
7 which would be a forcible felony in Illinois or a Class 2 or
8 greater offense under the Illinois Controlled Substances Act
9 or Cannabis Control Act and the defendant is on bail for the
10 alleged commission of a felony, or where the defendant is on
11 bail for a felony domestic battery (enhanced pursuant to
12 subsection (b) of Section 12-3.2 of the Criminal Code of
13 1961), aggravated domestic battery, aggravated battery,
14 unlawful restraint, aggravated unlawful restraint or domestic
15 battery in violation of item (1) of subsection (a) of Section
16 12-3.2 of the Criminal Code of 1961 against a family or
17 household member as defined in Section 112A-3 of this Code
18 and the violation is an offense of domestic battery against
19 the same victim the court shall, on the motion of the State
20 or its own motion, revoke bail in accordance with the
21 following provisions:

22 (1) The court shall hold the defendant without bail
23 pending the hearing on the alleged breach; however, if
24 the defendant is not admitted to bail the hearing shall
25 be commenced within 10 days from the date the defendant
26 is taken into custody or the defendant may not be held
27 any longer without bail, unless delay is occasioned by
28 the defendant. Where defendant occasions the delay, the
29 running of the 10 day period is temporarily suspended and
30 resumes at the termination of the period of delay. Where
31 defendant occasions the delay with 5 or fewer days
32 remaining in the 10 day period, the court may grant a
33 period of up to 5 additional days to the State for good
34 cause shown. The State, however, shall retain the right

1 to proceed to hearing on the alleged violation at any
2 time, upon reasonable notice to the defendant and the
3 court.

4 (2) At a hearing on the alleged violation the State
5 has the burden of going forward and proving the violation
6 by clear and convincing evidence. The evidence shall be
7 presented in open court with the opportunity to testify,
8 to present witnesses in his behalf, and to cross-examine
9 witnesses if any are called by the State, and
10 representation by counsel and if the defendant is
11 indigent to have counsel appointed for him. The rules of
12 evidence applicable in criminal trials in this State
13 shall not govern the admissibility of evidence at such
14 hearing. Information used by the court in its findings or
15 stated in or offered in connection with hearings for
16 increase or revocation of bail may be by way of proffer
17 based upon reliable information offered by the State or
18 defendant. All evidence shall be admissible if it is
19 relevant and reliable regardless of whether it would be
20 admissible under the rules of evidence applicable at
21 criminal trials. A motion by the defendant to suppress
22 evidence or to suppress a confession shall not be
23 entertained at such a hearing. Evidence that proof may
24 have been obtained as a result of an unlawful search and
25 seizure or through improper interrogation is not relevant
26 to this hearing.

27 (3) Upon a finding by the court that the State has
28 established by clear and convincing evidence that the
29 defendant has committed a forcible felony or a Class 2 or
30 greater offense under the Controlled Substances Act or
31 Cannabis Control Act while admitted to bail, or where the
32 defendant is on bail for a felony domestic battery
33 (enhanced pursuant to subsection (b) of Section 12-3.2 of
34 the Criminal Code of 1961), aggravated domestic battery,

1 aggravated battery, unlawful restraint, aggravated
2 unlawful restraint or domestic battery in violation of
3 item (1) of subsection (a) of Section 12-3.2 of the
4 Criminal Code of 1961 against a family or household
5 member as defined in Section 112A-3 of this Code and the
6 violation is an offense of domestic battery, against the
7 same victim, the court shall revoke the bail of the
8 defendant and hold the defendant for trial without bail.
9 Neither the finding of the court nor any transcript or
10 other record of the hearing shall be admissible in the
11 State's case in chief, but shall be admissible for
12 impeachment, or as provided in Section 115-10.1 of this
13 Code or in a perjury proceeding.

14 (4) If the bail of any defendant is revoked
15 pursuant to paragraph (f) (3) of this Section, the
16 defendant may demand and shall be entitled to be brought
17 to trial on the offense with respect to which he was
18 formerly released on bail within 90 days after the date
19 on which his bail was revoked. If the defendant is not
20 brought to trial within the 90 day period required by the
21 preceding sentence, he shall not be held longer without
22 bail. In computing the 90 day period, the court shall
23 omit any period of delay resulting from a continuance
24 granted at the request of the defendant.

25 (5) If the defendant either is arrested on a
26 warrant issued pursuant to this Code or is arrested for
27 an unrelated offense and it is subsequently discovered
28 that the defendant is a subject of another warrant or
29 warrants issued pursuant to this Code, the defendant
30 shall be transferred promptly to the court which issued
31 such warrant. If, however, the defendant appears
32 initially before a court other than the court which
33 issued such warrant, the non-issuing court shall not
34 alter the amount of bail heretofore set on such warrant

1 unless the court sets forth on the record of proceedings
2 the conclusions of law and facts which are the basis for
3 such altering of another court's bond. The non-issuing
4 court shall not alter another courts bail set on a
5 warrant unless the interests of justice and public safety
6 are served by such action.

7 (g) The State may appeal any order where the court has
8 increased or reduced the amount of bail or altered the
9 conditions of the bail bond or granted bail where it has
10 previously been revoked.

11 (Source: P.A. 86-984; 87-870; 87-871.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law."