

CRIMINAL PROCEDURE
(725 ILCS 5/) Code of Criminal Procedure of 1963.

(725 ILCS 5/Art. 110 heading)
ARTICLE 110. BAIL

(725 ILCS 5/110-1) (from Ch. 38, par. 110-1)

Sec. 110-1. Definitions. (a) "Security" is that which is required to be pledged to insure the payment of bail.

(b) "Sureties" encompasses the monetary and nonmonetary requirements set by the court as conditions for release either before or after conviction. "Surety" is one who executes a bail bond and binds himself to pay the bail if the person in custody fails to comply with all conditions of the bail bond.

(c) The phrase "for which a sentence of imprisonment, without conditional and revocable release, shall be imposed by law as a consequence of conviction" means an offense for which a sentence of imprisonment, without probation, periodic imprisonment or conditional discharge, is required by law upon conviction.

(d) "Real and present threat to the physical safety of any person or persons", as used in this Article, includes a threat to the community, person, persons or class of persons.

(Source: P.A. 85-892.)

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

Sec. 110-2. Release on own recognizance. When from all the circumstances the court is of the opinion that the defendant will appear as required either before or after conviction and the defendant will not pose a danger to any person or the community and that the defendant will comply with all conditions of bond, which shall include the defendant's current address with a written admonishment to the defendant that he or she must comply with the provisions of Section 110-12 of this Code regarding any change in his or her address, the defendant may be released on his or her own recognizance. The defendant's address shall at all times remain a matter of public record with the clerk of the court. A failure to appear as required by such recognizance shall constitute an offense subject to the penalty provided in Section 32-10 of the "Criminal Code of 1961", approved July 28, 1961, as heretofore and hereafter amended, for violation of the bail bond, and any obligated sum fixed in the recognizance shall be forfeited and collected in accordance with subsection (g) of Section 110-7 of this Code.

This Section shall be liberally construed to effectuate the purpose of relying upon contempt of court proceedings or criminal sanctions instead of financial loss to assure the appearance of the defendant, and that the defendant will not pose a danger to any person or the community and that the defendant will comply with all conditions of bond. Monetary bail should be set only when it is determined that no other

conditions of release will reasonably assure the defendant's appearance in court, that the defendant does not present a danger to any person or the community and that the defendant will comply with all conditions of bond.

The State may appeal any order permitting release by personal recognizance.

(Source: P.A. 89-377, eff. 8-18-95.)

(725 ILCS 5/110-3) (from Ch. 38, par. 110-3)

Sec. 110-3. Issuance of warrant. Upon failure to comply with any condition of a bail bond or recognizance the court having jurisdiction at the time of such failure may, in addition to any other action provided by law, issue a warrant for the arrest of the person at liberty on bail or his own recognizance. The contents of such a warrant shall be the same as required for an arrest warrant issued upon complaint. When a defendant is at liberty on bail or his own recognizance on a felony charge and fails to appear in court as directed, the court shall issue a warrant for the arrest of such person. Such warrant shall be noted with a directive to peace officers to arrest the person and hold such person without bail and to deliver such person before the court for further proceedings. A defendant who is arrested or surrenders within 30 days of the issuance of such warrant shall not be bailable in the case in question unless he shows by the preponderance of the evidence that his failure to appear was not intentional.

(Source: P.A. 86-298; 86-984; 86-1028.)

(725 ILCS 5/110-4) (from Ch. 38, par. 110-4)

Sec. 110-4. Bailable Offenses.

(a) All persons shall be bailable before conviction, except the following offenses where the proof is evident or the presumption great that the defendant is guilty of the offense: capital offenses; offenses for which a sentence of life imprisonment may be imposed as a consequence of conviction; felony offenses for which a sentence of imprisonment, without conditional and revocable release, shall be imposed by law as a consequence of conviction, where the court after a hearing, determines that the release of the defendant would pose a real and present threat to the physical safety of any person or persons; stalking or aggravated stalking, where the court, after a hearing, determines that the release of the defendant would pose a real and present threat to the physical safety of the alleged victim of the offense and denial of bail is necessary to prevent fulfillment of the threat upon which the charge is based; or unlawful use of weapons in violation of item (4) of subsection (a) of Section 24-1 of the Criminal Code of 1961 when that offense occurred in a school or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity, or on any public way within 1,000 feet of real property comprising any school, where the court, after a hearing, determines that the release of the defendant would pose a real and present threat to the physical safety of any person and denial of bail is necessary to prevent fulfillment of that threat; or making a terrorist threat in violation of Section 29D-20 of the Criminal Code of 1961 or an attempt to commit the offense of making a terrorist threat, where the court, after a hearing, determines that the release of the

defendant would pose a real and present threat to the physical safety of any person and denial of bail is necessary to prevent fulfillment of that threat.

(b) A person seeking release on bail who is charged with a capital offense or an offense for which a sentence of life imprisonment may be imposed shall not be bailable until a hearing is held wherein such person has the burden of demonstrating that the proof of his guilt is not evident and the presumption is not great.

(c) Where it is alleged that bail should be denied to a person upon the grounds that the person presents a real and present threat to the physical safety of any person or persons, the burden of proof of such allegations shall be upon the State.

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

(Source: P.A. 95-952, eff. 8-29-08.)

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

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

(a) In determining the amount of monetary bail or conditions of release, if any, which will reasonably assure the appearance of a defendant as required or the safety of any other person or the community and the likelihood of compliance by the defendant with all the conditions of bail, the court shall, on the basis of available information, take into account such matters as the nature and circumstances of the offense charged, whether the evidence shows that as part of the offense there was a use of violence or threatened use of violence, whether the offense involved corruption of public officials or employees, whether there was physical harm or threats of physical harm to any public official, public employee, judge, prosecutor, juror or witness, senior citizen, child or handicapped person, whether evidence shows that during the offense or during the arrest the defendant possessed or used a firearm, machine gun, explosive or metal piercing ammunition or explosive bomb device or any military or paramilitary armament, whether the evidence shows that the offense committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized gang, the condition of the victim, any written statement submitted by the victim or proffer or representation by the State regarding the impact which the alleged criminal conduct has had on the victim and the victim's concern, if any, with further contact with the defendant if released on bail, whether the offense was based on racial, religious, sexual orientation or ethnic hatred, the likelihood of the filing of a greater charge, the likelihood of conviction, the sentence applicable upon conviction, the weight of the evidence against such defendant, whether there exists motivation or ability to flee, whether there is any verification as to prior residence, education, or family ties in the local jurisdiction, in another county, state or foreign country, the defendant's employment, financial resources, character and mental condition, past conduct, prior use of alias names or dates of birth, and length of residence in the community, the consent of the defendant to periodic drug testing in accordance with Section 110-6.5, whether a foreign national defendant is lawfully admitted in the United States of America, whether the government of the foreign national maintains an extradition treaty with the United States by which the foreign government will extradite to the United States its national for a trial for a crime allegedly committed in the United

States, whether the defendant is currently subject to deportation or exclusion under the immigration laws of the United States, whether the defendant, although a United States citizen, is considered under the law of any foreign state a national of that state for the purposes of extradition or non-extradition to the United States, the amount of unrecovered proceeds lost as a result of the alleged offense, the source of bail funds tendered or sought to be tendered for bail, whether from the totality of the court's consideration, the loss of funds posted or sought to be posted for bail will not deter the defendant from flight, whether the evidence shows that the defendant is engaged in significant possession, manufacture, or delivery of a controlled substance or cannabis, either individually or in consort with others, whether at the time of the offense charged he was on bond or pre-trial release pending trial, probation, periodic imprisonment or conditional discharge pursuant to this Code or the comparable Code of any other state or federal jurisdiction, whether the defendant is on bond or pre-trial release pending the imposition or execution of sentence or appeal of sentence for any offense under the laws of Illinois or any other state or federal jurisdiction, whether the defendant is under parole or mandatory supervised release or work release from the Illinois Department of Corrections or any penal institution or corrections department of any state or federal jurisdiction, the defendant's record of convictions, whether the defendant has been convicted of a misdemeanor or ordinance offense in Illinois or similar offense in other state or federal jurisdiction within the 10 years preceding the current charge or convicted of a felony in Illinois, whether the defendant was convicted of an offense in another state or federal jurisdiction that would be a felony if committed in Illinois within the 20 years preceding the current charge or has been convicted of such felony and released from the penitentiary within 20 years preceding the current charge if a penitentiary sentence was imposed in Illinois or other state or federal jurisdiction, the defendant's records of juvenile adjudication of delinquency in any jurisdiction, any record of appearance or failure to appear by the defendant at court proceedings, whether there was flight to avoid arrest or prosecution, whether the defendant escaped or attempted to escape to avoid arrest, whether the defendant refused to identify himself, or whether there was a refusal by the defendant to be fingerprinted as required by law. Information used by the court in its findings or stated in or offered in connection with this Section may be by way of proffer based upon reliable information offered by the State or defendant. All evidence shall be admissible if it is relevant and reliable regardless of whether it would be admissible under the rules of evidence applicable at criminal trials. If the State presents evidence that the offense committed by the defendant was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized gang, and if the court determines that the evidence may be substantiated, the court shall prohibit the defendant from associating with other members of the organized gang as a condition of bail or release. For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(b) The amount of bail shall be:

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

- (2) Not oppressive.
- (3) Considerate of the financial ability of the accused.

(4) When a person is charged with a drug related offense involving possession or delivery of cannabis or possession or delivery of a controlled substance as defined in the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, the full street value of the drugs seized shall be considered. "Street value" shall be determined by the court on the basis of a proffer by the State based upon reliable information of a law enforcement official contained in a written report as to the amount seized and such proffer may be used by the court as to the current street value of the smallest unit of the drug seized.

(b-5) Upon the filing of a written request demonstrating reasonable cause, the State's Attorney may request a source of bail hearing either before or after the posting of any funds. If the hearing is granted, before the posting of any bail, the accused must file a written notice requesting that the court conduct a source of bail hearing. The notice must be accompanied by justifying affidavits stating the legitimate and lawful source of funds for bail. At the hearing, the court shall inquire into any matters stated in any justifying affidavits, and may also inquire into matters appropriate to the determination which shall include, but are not limited to, the following:

- (1) the background, character, reputation, and relationship to the accused of any surety; and
- (2) the source of any money or property deposited by any surety, and whether any such money or property constitutes the fruits of criminal or unlawful conduct; and
- (3) the source of any money posted as cash bail, and whether any such money constitutes the fruits of criminal or unlawful conduct; and
- (4) the background, character, reputation, and relationship to the accused of the person posting cash bail.

Upon setting the hearing, the court shall examine, under oath, any persons who may possess material information. The State's Attorney has a right to attend the hearing, to call witnesses and to examine any witness in the proceeding. The court shall, upon request of the State's Attorney, continue the proceedings for a reasonable period to allow the State's Attorney to investigate the matter raised in any testimony or affidavit. If the hearing is granted after the accused has posted bail, the court shall conduct a hearing consistent with this subsection (b-5). At the conclusion of the hearing, the court must issue an order either approving or disapproving the bail.

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

(d) When a person has been convicted of an offense and only a fine has been imposed the amount of the bail shall not

exceed double the amount of the fine.

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

(f) When a person is charged with a violation of an order of protection under Section 12-30 of the Criminal Code of 1961,

(1) whether the alleged incident involved harassment or abuse, as defined in the Illinois Domestic Violence Act of 1986;

(2) whether the person has a history of domestic violence, as defined in the Illinois Domestic Violence Act, or a history of other criminal acts;

(3) based on the mental health of the person;

(4) whether the person has a history of violating the orders of any court or governmental entity;

(5) whether the person has been, or is, potentially a threat to any other person;

(6) whether the person has access to deadly weapons or a history of using deadly weapons;

(7) whether the person has a history of abusing alcohol or any controlled substance;

(8) based on the severity of the alleged incident that is the basis of the alleged offense, including, but not limited to, the duration of the current incident, and whether the alleged incident involved physical injury, sexual assault, strangulation, abuse during the alleged victim's pregnancy, abuse of pets, or forcible entry to gain access to the alleged victim;

(9) whether a separation of the person from the alleged victim or a termination of the relationship between the person and the alleged victim has recently occurred or is pending;

(10) whether the person has exhibited obsessive or controlling behaviors toward the alleged victim, including, but not limited to, stalking, surveillance, or isolation of the alleged victim or victim's family member or members;

(11) whether the person has expressed suicidal or homicidal ideations;

(12) based on any information contained in the complaint and any police reports, affidavits, or other documents accompanying the complaint,

the court may, in its discretion, order the respondent to undergo a risk assessment evaluation conducted by an Illinois Department of Human Services approved partner abuse intervention program provider, pretrial service, probation, or parole agency. These agencies shall have access to summaries of the defendant's criminal history, which shall not include victim interviews or information, for the risk evaluation. Based on the information collected from the 12 points to be considered at a bail hearing for a violation of an order of protection, the results of any risk evaluation conducted and the other circumstances of the violation, the court may order that the person, as a condition of bail, be placed under electronic surveillance as provided in Section 5-8A-7 of the Unified Code of Corrections.

(Source: P.A. 95-773, eff. 1-1-09; 96-688, eff. 8-25-09.)

(725 ILCS 5/110-5.1)

Sec. 110-5.1. Bail; certain persons charged with violent crimes against family or household members.

(a) Subject to subsection (c), a person who is charged with a violent crime shall appear before the court for the setting of bail if the alleged victim was a family or household member at the time of the alleged offense, and if any of the following applies:

(1) the person charged, at the time of the alleged offense, was subject to the terms of an order of protection issued under Section 112A-14 of this Code or Section 214 of the Illinois Domestic Violence Act of 1986 or previously was convicted of a violation of an order of protection under Section 12-30 of the Criminal Code of 1961 or a violent crime if the victim was a family or household member at the time of the offense or a violation of a substantially similar municipal ordinance or law of this or any other state or the United States if the victim was a family or household member at the time of the offense;

(2) the arresting officer indicates in a police report or other document accompanying the complaint any of the following:

(A) that the arresting officer observed on the alleged victim objective manifestations of physical harm that the arresting officer reasonably believes are a result of the alleged offense;

(B) that the arresting officer reasonably believes that the person had on the person's person at the time of the alleged offense a deadly weapon;

(C) that the arresting officer reasonably believes that the person presents a credible threat of serious physical harm to the alleged victim or to any other person if released on bail before trial.

(b) To the extent that information about any of the following is available to the court, the court shall consider all of the following, in addition to any other circumstances considered by the court, before setting bail for a person who appears before the court pursuant to subsection (a):

(1) whether the person has a history of domestic violence or a history of other violent acts;

(2) the mental health of the person;

(3) whether the person has a history of violating the orders of any court or governmental entity;

(4) whether the person is potentially a threat to any other person;

(5) whether the person has access to deadly weapons or a history of using deadly weapons;

(6) whether the person has a history of abusing alcohol or any controlled substance;

(7) the severity of the alleged violence that is the basis of the alleged offense, including, but not limited

to, the duration of the alleged violent incident, and whether the alleged violent incident involved serious physical injury, sexual assault, strangulation, abuse during the alleged victim's pregnancy, abuse of pets, or forcible entry to gain access to the alleged victim;

(8) whether a separation of the person from the alleged victim or a termination of the relationship between the person and the alleged victim has recently occurred or is pending;

(9) whether the person has exhibited obsessive or controlling behaviors toward the alleged victim, including, but not limited to, stalking, surveillance, or isolation of the alleged victim;

(10) whether the person has expressed suicidal or homicidal ideations;

(11) any information contained in the complaint and any police reports, affidavits, or other documents accompanying the complaint.

(c) Upon the court's own motion or the motion of a party and upon any terms that the court may direct, a court may permit a person who is required to appear before it by subsection (a) to appear by video conferencing equipment. If, in the opinion of the court, the appearance in person or by video conferencing equipment of a person who is charged with a misdemeanor and who is required to appear before the court by subsection (a) is not practicable, the court may waive the appearance and release the person on bail on one or both of the following types of bail in an amount set by the court:

(1) a bail bond secured by a deposit of 10% of the amount of the bond in cash;

(2) a surety bond, a bond secured by real estate or securities as allowed by law, or the deposit of cash, at the option of the person.

Subsection (a) does not create a right in a person to appear before the court for the setting of bail or prohibit a court from requiring any person charged with a violent crime who is not described in subsection (a) from appearing before the court for the setting of bail.

(d) As used in this Section:

(1) "Violent crime" has the meaning ascribed to it in Section 3 of the Rights of Crime Victims and Witnesses Act.

(2) "Family or household member" has the meaning ascribed to it in Section 112A-3 of this Code.

(Source: P.A. 94-878, eff. 1-1-07.)

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

Sec. 110-6. (a) Upon verified application by the State or the defendant or on its own motion the court before which the proceeding is pending may increase or reduce the amount of bail or may alter the conditions of the bail bond or grant bail where it has been previously revoked or denied. If bail has been previously revoked pursuant to subsection (f) of this Section or if bail has been denied to the defendant pursuant to subsection (e) of Section 110-6.1 or subsection (e) of Section 110-6.3, the defendant shall be required

to present a verified application setting forth in detail any new facts not known or obtainable at the time of the previous revocation or denial of bail proceedings. If the court grants bail where it has been previously revoked or denied, the court shall state on the record of the proceedings the findings of facts and conclusion of law upon which such order is based.

(b) Violation of the conditions of Section 110-10 of this Code or any special conditions of bail as ordered by the court shall constitute grounds for the court to increase the amount of bail, or otherwise alter the conditions of bail, or, where the alleged offense committed on bail is a forcible felony in Illinois or a Class 2 or greater offense under the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act, revoke bail pursuant to the appropriate provisions of subsection (e) of this Section.

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

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

(e) Upon verified application by the State stating facts or circumstances constituting a violation or a threatened violation of any of the conditions of the bail bond the court may issue a warrant commanding any peace officer to bring the defendant without unnecessary delay before the court for a hearing on the matters set forth in the application. If the actual court before which the proceeding is pending is absent or otherwise unavailable another court may issue a warrant pursuant to this Section. When the defendant is charged with a felony offense and while free on bail is charged with a subsequent felony offense and is the subject of a proceeding set forth in Section 109-1 or 109-3 of this Code, upon the filing of a verified petition by the State alleging a violation of Section 110-10 (a) (4) of this Code, the court shall without prior notice to the defendant, grant leave to file such application and shall order the transfer of the defendant and the application without unnecessary delay to the court before which the previous felony matter is pending for a hearing as provided in subsection (b) or this subsection of this Section. The defendant shall be held without bond pending transfer to and a hearing before such court. At the conclusion of the hearing based on a violation of the conditions of Section 110-10 of this Code or any special conditions of bail as ordered by the court the court may enter an order increasing the amount of bail or alter the conditions of bail as deemed appropriate.

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

- (1) The court shall hold the defendant without bail pending the hearing on the alleged breach; however, if the defendant is not admitted to bail the hearing shall be commenced within 10 days from the date the defendant is taken into custody or the defendant may not be held any

longer without bail, unless delay is occasioned by the defendant. Where defendant occasions the delay, the running of the 10 day period is temporarily suspended and resumes at the termination of the period of delay. Where defendant occasions the delay with 5 or fewer days remaining in the 10 day period, the court may grant a period of up to 5 additional days to the State for good cause shown. The State, however, shall retain the right to proceed to hearing on the alleged violation at any time, upon reasonable notice to the defendant and the court.

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

(3) Upon a finding by the court that the State has established by clear and convincing evidence that the defendant has committed a forcible felony or a Class 2 or greater offense under the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act while admitted to bail, or where the defendant is on bail for a felony domestic battery (enhanced pursuant to subsection (b) of Section 12-3.2 of the Criminal Code of 1961), aggravated domestic battery, aggravated battery, unlawful restraint, aggravated unlawful restraint or domestic battery in violation of item (1) of subsection (a) of Section 12-3.2 of the Criminal Code of 1961 against a family or household member as defined in Section 112A-3 of this Code and the violation is an offense of domestic battery, against the same victim, the court shall revoke the bail of the defendant and hold the defendant for trial without bail. Neither the finding of the court nor any transcript or other record of the hearing shall be admissible in the State's case in chief, but shall be admissible for impeachment, or as provided in Section 115-10.1 of this Code or in a perjury proceeding.

(4) If the bail of any defendant is revoked pursuant to paragraph (f) (3) of this Section, the defendant may demand and shall be entitled to be brought to trial on the

offense with respect to which he was formerly released on bail within 90 days after the date on which his bail was revoked. If the defendant is not brought to trial within the 90 day period required by the preceding sentence, he shall not be held longer without bail. In computing the 90 day period, the court shall omit any period of delay resulting from a continuance granted at the request of the defendant.

(5) If the defendant either is arrested on a warrant issued pursuant to this Code or is arrested for an unrelated offense and it is subsequently discovered that the defendant is a subject of another warrant or warrants issued pursuant to this Code, the defendant shall be transferred promptly to the court which issued such warrant. If, however, the defendant appears initially before a court other than the court which issued such warrant, the non-issuing court shall not alter the amount of bail heretofore set on such warrant unless the court sets forth on the record of proceedings the conclusions of law and facts which are the basis for such altering of another court's bond. The non-issuing court shall not alter another courts bail set on a warrant unless the interests of justice and public safety are served by such action.

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

(Source: P.A. 93-417, eff. 8-5-03; 94-556, eff. 9-11-05.)

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

Sec. 110-6.1. Denial of bail in non-probationable felony offenses.

(a) Upon verified petition by the State, the court shall hold a hearing to determine whether bail should be denied to a defendant who is charged with a felony offense for which a sentence of imprisonment, without probation, periodic imprisonment or conditional discharge, is required by law upon conviction, when it is alleged that the defendant's admission to bail poses a real and present threat to the physical safety of any person or persons.

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

(2) The hearing shall be held immediately upon the defendant's appearance before the court, unless for good cause shown the defendant or the State seeks a continuance. A continuance on motion of the defendant may not exceed 5 calendar days, and a continuance on the motion of the State may not exceed 3 calendar days. The defendant may be held in custody during such continuance.

(b) The court may deny bail to the defendant where, after the hearing, it is determined that:

(1) the proof is evident or the presumption great

that the defendant has committed an offense for which a sentence of imprisonment, without probation, periodic imprisonment or conditional discharge, must be imposed by law as a consequence of conviction, and

(2) the defendant poses a real and present threat to the physical safety of any person or persons, by conduct which may include, but is not limited to, a forcible felony, the obstruction of justice, intimidation, injury, physical harm, an offense under the Illinois Controlled Substances Act which is a Class X felony, or an offense under the Methamphetamine Control and Community Protection Act which is a Class X felony, and

(3) the court finds that no condition or combination of conditions set forth in subsection (b) of Section 110-10 of this Article, can reasonably assure the physical safety of any other person or persons.

(c) Conduct of the hearings.

(1) The hearing on the defendant's culpability and dangerousness shall be conducted in accordance with the following provisions:

(A) Information used by the court in its findings or stated in or offered at such hearing may be by way of proffer based upon reliable information offered by the State or by defendant. Defendant has the right to be represented by counsel, and if he is indigent, to have counsel appointed for him. Defendant shall have the opportunity to testify, to present witnesses in his own behalf, and to cross-examine witnesses if any are called by the State. The defendant has the right to present witnesses in his favor. When the ends of justice so require, the court may exercise its discretion and compel the appearance of a complaining witness. The court shall state on the record reasons for granting a defense request to compel the presence of a complaining witness. Cross-examination of a complaining witness at the pretrial detention hearing for the purpose of impeaching the witness' credibility is insufficient reason to compel the presence of the witness. In deciding whether to compel the appearance of a complaining witness, the court shall be considerate of the emotional and physical well-being of the witness. The pre-trial detention hearing is not to be used for purposes of discovery, and the post arraignment rules of discovery do not apply. The State shall tender to the defendant, prior to the hearing, copies of defendant's criminal history, if any, if available, and any written or recorded statements and the substance of any oral statements made by any person, if relied upon by the State in its petition. The rules concerning the admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. At the trial concerning the offense for which the hearing was conducted neither the finding of the court nor any transcript or other record of the hearing shall be admissible in the State's case in chief, but shall be

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

(B) A motion by the defendant to suppress evidence or to suppress a confession shall not be entertained. Evidence that proof may have been obtained as the result of an unlawful search and seizure or through improper interrogation is not relevant to this state of the prosecution.

(2) The facts relied upon by the court to support a finding that the defendant poses a real and present threat to the physical safety of any person or persons shall be supported by clear and convincing evidence presented by the State.

(d) Factors to be considered in making a determination of dangerousness. The court may, in determining whether the defendant poses a real and present threat to the physical safety of any person or persons, consider but shall not be limited to evidence or testimony concerning:

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

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

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

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

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

(4) Any statements made by, or attributed to the defendant, together with the circumstances surrounding them;

(5) The age and physical condition of any person assaulted by the defendant;

(6) Whether the defendant is known to possess or have access to any weapon or weapons;

(7) Whether, at the time of the current offense or any other offense or arrest, the defendant was on probation, parole, mandatory supervised release or other release from custody pending trial, sentencing, appeal or completion of sentence for an offense under federal or state law;

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

(e) Detention order. The court shall, in any order for detention:

(1) briefly summarize the evidence of the defendant's culpability and its reasons for concluding that the defendant should be held without bail;

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

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

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

(f) If the court enters an order for the detention of the defendant pursuant to subsection (e) of this Section, the defendant shall be brought to trial on the offense for which he is detained within 90 days after the date on which the order for detention was entered. If the defendant is not brought to trial within the 90 day period required by the preceding sentence, he shall not be held longer without bail. In computing the 90 day period, the court shall omit any period of delay resulting from a continuance granted at the request of the defendant.

(g) Rights of the defendant. Any person shall be entitled to appeal any order entered under this Section denying bail to the defendant.

(h) The State may appeal any order entered under this Section denying any motion for denial of bail.

(i) Nothing in this Section shall be construed as modifying or limiting in any way the defendant's presumption of innocence in further criminal proceedings.

(Source: P.A. 94-556, eff. 9-11-05.)

(725 ILCS 5/110-6.2) (from Ch. 38, par. 110-6.2)

Sec. 110-6.2. Post-conviction Detention. (a) The court shall order that a person who has been found guilty of an offense and who is waiting imposition or execution of sentence be held without bond unless the court finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community if released under Sections 110-5 and 110-10 of this Act.

(b) The court shall order that person who has been found guilty of an offense and sentenced to a term of imprisonment shall be held without bond unless the court finds by clear and convincing evidence that:

(1) the person is not likely to flee or pose a danger to the safety of any other person or the community if released on bond pending appeal; and

(2) that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

(Source: P.A. 86-984.)

(725 ILCS 5/110-6.3) (from Ch. 38, par. 110-6.3)

Sec. 110-6.3. Denial of bail in stalking and aggravated stalking offenses.

(a) Upon verified petition by the State, the court shall hold a hearing to determine whether bail should be denied to a defendant who is charged with stalking or aggravated stalking, when it is alleged that the defendant's admission to bail poses a real and present threat to the physical safety of the alleged victim of the offense, and denial of release on bail or personal recognizance is necessary to prevent fulfillment of the threat upon which the charge is based.

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

(2) The hearing shall be held immediately upon the defendant's appearance before the court, unless for good cause shown the defendant or the State seeks a continuance. A continuance on motion of the defendant may not exceed 5 calendar days, and the defendant may be held in custody during the continuance. A continuance on the motion of the State may not exceed 3 calendar days; however, the defendant may be held in custody during the continuance under this provision if the defendant has been previously found to have violated an order of protection or has been previously convicted of, or granted court supervision for, any of the offenses set forth in Sections 12-2, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-7.3, 12-7.4, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, against the same person as the alleged victim of the stalking or aggravated stalking offense.

(b) The court may deny bail to the defendant when, after the hearing, it is determined that:

(1) the proof is evident or the presumption great that the defendant has committed the offense of stalking or aggravated stalking; and

(2) the defendant poses a real and present threat to the physical safety of the alleged victim of the offense; and

(3) the denial of release on bail or personal recognizance is necessary to prevent fulfillment of the threat upon which the charge is based; and

(4) the court finds that no condition or combination of conditions set forth in subsection (b) of Section 110-10 of this Code, including mental health treatment at a community mental health center, hospital, or facility of the Department of Human Services, can reasonably assure the physical safety of the alleged victim of the offense.

(c) Conduct of the hearings.

(1) The hearing on the defendant's culpability and threat to the alleged victim of the offense shall be conducted in accordance with the following provisions:

(A) Information used by the court in its

findings or stated in or offered at the hearing may be by way of proffer based upon reliable information offered by the State or by defendant. Defendant has the right to be represented by counsel, and if he is indigent, to have counsel appointed for him. Defendant shall have the opportunity to testify, to present witnesses in his own behalf, and to cross-examine witnesses if any are called by the State. The defendant has the right to present witnesses in his favor. When the ends of justice so require, the court may exercise its discretion and compel the appearance of a complaining witness. The court shall state on the record reasons for granting a defense request to compel the presence of a complaining witness. Cross-examination of a complaining witness at the pretrial detention hearing for the purpose of impeaching the witness' credibility is insufficient reason to compel the presence of the witness. In deciding whether to compel the appearance of a complaining witness, the court shall be considerate of the emotional and physical well-being of the witness. The pretrial detention hearing is not to be used for the purposes of discovery, and the post arraignment rules of discovery do not apply. The State shall tender to the defendant, prior to the hearing, copies of defendant's criminal history, if any, if available, and any written or recorded statements and the substance of any oral statements made by any person, if relied upon by the State. The rules concerning the admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. At the trial concerning the offense for which the hearing was conducted neither the finding of the court nor any transcript or other record of the hearing shall be admissible in the State's case in chief, but shall be admissible for impeachment, or as provided in Section 115-10.1 of this Code, or in a perjury proceeding.

(B) A motion by the defendant to suppress evidence or to suppress a confession shall not be entertained. Evidence that proof may have been obtained as the result of an unlawful search and seizure or through improper interrogation is not relevant to this state of the prosecution.

(2) The facts relied upon by the court to support a finding that:

(A) the defendant poses a real and present threat to the physical safety of the alleged victim of the offense; and

(B) the denial of release on bail or personal recognizance is necessary to prevent fulfillment of the threat upon which the charge is based;

shall be supported by clear and convincing evidence presented by the State.

(d) Factors to be considered in making a determination of the threat to the alleged victim of the offense. The court may, in determining whether the defendant poses, at the time

of the hearing, a real and present threat to the physical safety of the alleged victim of the offense, consider but shall not be limited to evidence or testimony concerning:

- (1) The nature and circumstances of the offense charged;
- (2) The history and characteristics of the defendant including:

(A) Any evidence of the defendant's prior criminal history indicative of violent, abusive or assaultive behavior, or lack of that behavior. The evidence may include testimony or documents received in juvenile proceedings, criminal, quasi-criminal, civil commitment, domestic relations or other proceedings;

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

(3) The nature of the threat which is the basis of the charge against the defendant;

(4) Any statements made by, or attributed to the defendant, together with the circumstances surrounding them;

(5) The age and physical condition of any person assaulted by the defendant;

(6) Whether the defendant is known to possess or have access to any weapon or weapons;

(7) Whether, at the time of the current offense or any other offense or arrest, the defendant was on probation, parole, mandatory supervised release or other release from custody pending trial, sentencing, appeal or completion of sentence for an offense under federal or state law;

(8) Any other factors, including those listed in Section 110-5 of this Code, deemed by the court to have a reasonable bearing upon the defendant's propensity or reputation for violent, abusive or assaultive behavior, or lack of that behavior.

(e) The court shall, in any order denying bail to a person charged with stalking or aggravated stalking:

(1) briefly summarize the evidence of the defendant's culpability and its reasons for concluding that the defendant should be held without bail;

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

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

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

(f) If the court enters an order for the detention of the defendant under subsection (e) of this Section, the defendant shall be brought to trial on the offense for which he is detained within 90 days after the date on which the order for

detention was entered. If the defendant is not brought to trial within the 90 day period required by this subsection (f), he shall not be held longer without bail. In computing the 90 day period, the court shall omit any period of delay resulting from a continuance granted at the request of the defendant. The court shall immediately notify the alleged victim of the offense that the defendant has been admitted to bail under this subsection.

(g) Any person shall be entitled to appeal any order entered under this Section denying bail to the defendant.

(h) The State may appeal any order entered under this Section denying any motion for denial of bail.

(i) Nothing in this Section shall be construed as modifying or limiting in any way the defendant's presumption of innocence in further criminal proceedings.

(Source: P.A. 90-14, eff. 7-1-97; 91-445, eff. 1-1-00.)

(725 ILCS 5/110-6.5)

Sec. 110-6.5. Drug testing program. The Chief Judge of the circuit may establish a drug testing program as provided by this Section in any county in the circuit if the county board has approved the establishment of the program and the county probation department or pretrial services agency has consented to administer it. The drug testing program shall be conducted under the following provisions:

(a) The court, in the case of a defendant charged with a felony offense or any offense involving the possession or delivery of cannabis or a controlled substance, shall:

(1) not consider the release of the defendant on his or her own recognizance, unless the defendant consents to periodic drug testing during the period of release on his or her own recognizance, in accordance with this Section;

(2) consider the consent of the defendant to periodic drug testing during the period of release on bail in accordance with this Section as a favorable factor for the defendant in determining the amount of bail, the conditions of release or in considering the defendant's motion to reduce the amount of bail.

(b) The drug testing shall be conducted by the pretrial services agency or under the direction of the probation department when a pretrial services agency does not exist in accordance with this Section.

(c) A defendant who consents to periodic drug testing as set forth in this Section shall sign an agreement with the court that, during the period of release, the defendant shall refrain from using illegal drugs and that the defendant will comply with the conditions of the testing program. The agreement shall be on a form prescribed by the court and shall be executed at the time of the bail hearing. This agreement shall be made a specific condition of bail.

(d) The drug testing program shall be conducted as follows:

(1) The testing shall be done by urinalysis for the detection of phencyclidine, heroin, cocaine, methadone and amphetamines.

(2) The collection of samples shall be performed under reasonable and sanitary conditions.

(3) Samples shall be collected and tested with due regard for the privacy of the individual being tested and in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples.

(4) Sample collection shall be documented, and the documentation procedures shall include:

(i) Labeling of samples so as to reasonably preclude the probability of erroneous identification of test results; and

(ii) An opportunity for the defendant to provide information on the identification of prescription or nonprescription drugs used in connection with a medical condition.

(5) Sample collection, storage, and transportation to the place of testing shall be performed so as to reasonably preclude the probability of sample contamination or adulteration.

(6) Sample testing shall conform to scientifically accepted analytical methods and procedures. Testing shall include verification or confirmation of any positive test result by a reliable analytical method before the result of any test may be used as a basis for any action by the court.

(e) The initial sample shall be collected before the defendant's release on bail. Thereafter, the defendant shall report to the pretrial services agency or probation department as required by the agency or department. The pretrial services agency or probation department shall immediately notify the court of any defendant who fails to report for testing.

(f) After the initial test, a subsequent confirmed positive test result indicative of continued drug use shall result in the following:

(1) Upon the first confirmed positive test result, the pretrial services agency or probation department, shall place the defendant on a more frequent testing schedule and shall warn the defendant of the consequences of continued drug use.

(2) A second confirmed positive test result shall be grounds for a hearing before the judge who authorized the release of the defendant in accordance with the provisions of subsection (g) of this Section.

(g) The court shall, upon motion of the State or upon its own motion, conduct a hearing in connection with any defendant who fails to appear for testing, fails to cooperate with the persons conducting the testing program, attempts to submit a sample not his or her own or has had a confirmed positive test result indicative of continued drug use for the second or subsequent time after the initial test. The hearing shall be conducted in accordance with the procedures of Section 110-6.

Upon a finding by the court that the State has established by clear and convincing evidence that the defendant has violated the drug testing conditions of bail, the court may consider any of the following sanctions:

(1) increase the amount of the defendant's bail or

- conditions of release;
- (2) impose a jail sentence of up to 5 days;
- (3) revoke the defendant's bail; or
- (4) enter such other orders which are within the

power of the court as deemed appropriate.

(h) The results of any drug testing conducted under this Section shall not be admissible on the issue of the defendant's guilt in connection with any criminal charge.

(i) The court may require that the defendant pay for the cost of drug testing.

(Source: P.A. 88-677, eff. 12-15-94.)

(725 ILCS 5/110-7) (from Ch. 38, par. 110-7)
Sec. 110-7. Deposit of Bail Security.

(a) The person for whom bail has been set shall execute the bail bond and deposit with the clerk of the court before which the proceeding is pending a sum of money equal to 10% of the bail, but in no event shall such deposit be less than \$25. The clerk of the court shall provide a space on each form for a person other than the accused who has provided the money for the posting of bail to so indicate and a space signed by an accused who has executed the bail bond indicating whether a person other than the accused has provided the money for the posting of bail. The form shall also include a written notice to such person who has provided the defendant with the money for the posting of bail indicating that the bail may be used to pay costs, attorney's fees, fines, or other purposes authorized by the court and if the defendant fails to comply with the conditions of the bail bond, the court shall enter an order declaring the bail to be forfeited. The written notice must be: (1) distinguishable from the surrounding text; (2) in bold type or underscored; and (3) in a type size at least 2 points larger than the surrounding type. When a person for whom bail has been set is charged with an offense under the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act which is a Class X felony, or making a terrorist threat in violation of Section 29D-20 of the Criminal Code of 1961 or an attempt to commit the offense of making a terrorist threat, the court may require the defendant to deposit a sum equal to 100% of the bail. Where any person is charged with a forcible felony while free on bail and is the subject of proceedings under Section 109-3 of this Code the judge conducting the preliminary examination may also conduct a hearing upon the application of the State pursuant to the provisions of Section 110-6 of this Code to increase or revoke the bail for that person's prior alleged offense.

(b) Upon depositing this sum and any bond fee authorized by law, the person shall be released from custody subject to the conditions of the bail bond.

(c) Once bail has been given and a charge is pending or is thereafter filed in or transferred to a court of competent jurisdiction the latter court shall continue the original bail in that court subject to the provisions of Section 110-6 of this Code.

(d) After conviction the court may order that the original bail stand as bail pending appeal or deny, increase or reduce bail subject to the provisions of Section 110-6.2.

(e) After the entry of an order by the trial court allowing or denying bail pending appeal either party may apply to the reviewing court having jurisdiction or to a justice thereof sitting in vacation for an order increasing or decreasing the amount of bail or allowing or denying bail pending appeal subject to the provisions of Section 110-6.2.

(f) When the conditions of the bail bond have been performed and the accused has been discharged from all obligations in the cause the clerk of the court shall return to the accused or to the defendant's designee by an assignment executed at the time the bail amount is deposited, unless the court orders otherwise, 90% of the sum which had been deposited and shall retain as bail bond costs 10% of the amount deposited. However, in no event shall the amount retained by the clerk as bail bond costs be less than \$5. Bail bond deposited by or on behalf of a defendant in one case may be used, in the court's discretion, to satisfy financial obligations of that same defendant incurred in a different case due to a fine, court costs, restitution or fees of the defendant's attorney of record. In counties with a population of 3,000,000 or more, the court shall not order bail bond deposited by or on behalf of a defendant in one case to be used to satisfy financial obligations of that same defendant in a different case until the bail bond is first used to satisfy court costs and attorney's fees in the case in which the bail bond has been deposited and any other unpaid child support obligations are satisfied. In counties with a population of less than 3,000,000, the court shall not order bail bond deposited by or on behalf of a defendant in one case to be used to satisfy financial obligations of that same defendant in a different case until the bail bond is first used to satisfy court costs in the case in which the bail bond has been deposited.

At the request of the defendant the court may order such 90% of defendant's bail deposit, or whatever amount is repayable to defendant from such deposit, to be paid to defendant's attorney of record.

(g) If the accused does not comply with the conditions of the bail bond the court having jurisdiction shall enter an order declaring the bail to be forfeited. Notice of such order of forfeiture shall be mailed forthwith to the accused at his last known address. If the accused does not appear and surrender to the court having jurisdiction within 30 days from the date of the forfeiture or within such period satisfy the court that appearance and surrender by the accused is impossible and without his fault the court shall enter judgment for the State if the charge for which the bond was given was a felony or misdemeanor, or if the charge was quasi-criminal or traffic, judgment for the political subdivision of the State which prosecuted the case, against the accused for the amount of the bail and costs of the court proceedings; however, in counties with a population of less than 3,000,000, instead of the court entering a judgment for the full amount of the bond the court may, in its discretion, enter judgment for the cash deposit on the bond, less costs, retain the deposit for further disposition or, if a cash bond was posted for failure to appear in a matter involving enforcement of child support or maintenance, the amount of the cash deposit on the bond, less outstanding costs, may be awarded to the person or entity to whom the child support or maintenance is due. The deposit made in accordance with paragraph (a) shall be applied to the payment of costs. If judgment is entered and any amount of such deposit remains after the payment of costs it shall be applied to payment of the judgment and transferred to the treasury of the municipal corporation wherein the bond was taken if the offense was a violation of any penal ordinance of a political subdivision of this State, or to the treasury of the county wherein the bond was taken if the offense was a violation of any penal statute of this State. The balance of the judgment may be enforced and collected in the same manner as a judgment entered in a civil action.

(h) After a judgment for a fine and court costs or either is entered in the prosecution of a cause in which a deposit had been made in accordance with paragraph (a) the balance of such deposit, after deduction of bail bond costs, shall be applied to the payment of the judgment.

(Source: P.A. 94-556, eff. 9-11-05; 95-952, eff. 8-29-08.)

(725 ILCS 5/110-8) (from Ch. 38, par. 110-8)

Sec. 110-8. Cash, stocks, bonds and real estate as security for bail.

(a) In lieu of the bail deposit provided for in Section 110-7 of this Code any person for whom bail has been set may execute the bail bond with or without sureties which bond may be secured:

(1) By a deposit, with the clerk of the court, of an amount equal to the required bail, of cash, or stocks and bonds in which trustees are authorized to invest trust funds under the laws of this State; or

(2) By real estate situated in this State with unencumbered equity not exempt owned by the accused or sureties worth double the amount of bail set in the bond.

(b) If the bail bond is secured by stocks and bonds the accused or sureties shall file with the bond a sworn schedule which shall be approved by the court and shall contain:

(1) A list of the stocks and bonds deposited describing each in sufficient detail that it may be identified;

(2) The market value of each stock and bond;

(3) The total market value of the stocks and bonds listed;

(4) A statement that the affiant is the sole owner of the stocks and bonds listed and they are not exempt from the enforcement of a judgment thereon;

(5) A statement that such stocks and bonds have not previously been used or accepted as bail in this State during the 12 months preceding the date of the bail bond; and

(6) A statement that such stocks and bonds are security for the appearance of the accused in accordance with the conditions of the bail bond.

(c) If the bail bond is secured by real estate the accused or sureties shall file with the bond a sworn schedule which shall contain:

(1) A legal description of the real estate;

(2) A description of any and all encumbrances on the real estate including the amount of each and the holder thereof;

(3) The market value of the unencumbered equity owned by the affiant;

(4) A statement that the affiant is the sole owner of such unencumbered equity and that it is not exempt from the enforcement of a judgment thereon;

(5) A statement that the real estate has not previously been used or accepted as bail in this State during the 12 months preceding the date of the bail bond; and

(6) A statement that the real estate is security for the appearance of the accused in accordance with the conditions of the bail bond.

(d) The sworn schedule shall constitute a material part of the bail bond. The affiant commits perjury if in the sworn

schedule he makes a false statement which he does not believe to be true. He shall be prosecuted and punished accordingly, or, he may be punished for contempt.

(e) A certified copy of the bail bond and schedule of real estate shall be filed immediately in the office of the registrar of titles or recorder of the county in which the real estate is situated and the State shall have a lien on such real estate from the time such copies are filed in the office of the registrar of titles or recorder. The registrar of titles or recorder shall enter, index and record (or register as the case may be) such bail bonds and schedules without requiring any advance fee, which fee shall be taxed as costs in the proceeding and paid out of such costs when collected.

(f) When the conditions of the bail bond have been performed and the accused has been discharged from his obligations in the cause, the clerk of the court shall return to him or his sureties the deposit of any cash, stocks or bonds. If the bail bond has been secured by real estate the clerk of the court shall forthwith notify in writing the registrar of titles or recorder and the lien of the bail bond on the real estate shall be discharged.

(g) If the accused does not comply with the conditions of the bail bond the court having jurisdiction shall enter an order declaring the bail to be forfeited. Notice of such order of forfeiture shall be mailed forthwith by the clerk of the court to the accused and his sureties at their last known address. If the accused does not appear and surrender to the court having jurisdiction within 30 days from the date of the forfeiture or within such period satisfy the court that appearance and surrender by the accused is impossible and without his fault the court shall enter judgment for the State against the accused and his sureties for the amount of the bail and costs of the proceedings; however, in counties with a population of less than 3,000,000, if the defendant has posted a cash bond, instead of the court entering a judgment for the full amount of the bond the court may, in its discretion, enter judgment for the cash deposit on the bond, less costs, retain the deposit for further disposition or, if a cash bond was posted for failure to appear in a matter involving enforcement of child support or maintenance, the amount of the cash deposit on the bond, less outstanding costs, may be awarded to the person or entity to whom the child support or maintenance is due.

(h) When judgment is entered in favor of the State on any bail bond given for a felony or misdemeanor, or judgement for a political subdivision of the state on any bail bond given for a quasi-criminal or traffic offense, the State's Attorney or political subdivision's attorney shall forthwith obtain a certified copy of the judgment and deliver same to the sheriff to be enforced by levy on the stocks or bonds deposited with the clerk of the court and the real estate described in the bail bond schedule. Any cash forfeited under subsection (g) of this Section shall be used to satisfy the judgment and costs and, without necessity of levy, ordered paid into the treasury of the municipal corporation wherein the bail bond was taken if the offense was a violation of any penal ordinance of a

political subdivision of this State, or into the treasury of the county wherein the bail bond was taken if the offense was a violation of any penal statute of this State, or to the person or entity to whom child support or maintenance is owed if the bond was taken for failure to appear in a matter involving child support or maintenance. The stocks, bonds and real estate shall be sold in the same manner as in sales for the enforcement of a judgment in civil actions and the proceeds of such sale shall be used to satisfy all court costs, prior encumbrances, if any, and from the balance a sufficient amount to satisfy the judgment shall be paid into the treasury of the municipal corporation wherein the bail bond was taken if the offense was a violation of any penal ordinance of a political subdivision of this State, or into the treasury of the county wherein the bail bond was taken if the offense was a violation of any penal statute of this State. The balance shall be returned to the owner. The real estate so sold may be redeemed in the same manner as real estate may be redeemed after judicial sales or sales for the enforcement of judgments in civil actions.

(i) No stocks, bonds or real estate may be used or accepted as bail bond security in this State more than once in any 12 month period.

(Source: P.A. 89-469, eff. 1-1-97.)

(725 ILCS 5/110-9) (from Ch. 38, par. 110-9)

Sec. 110-9. Taking of bail by peace officer. When bail has been set by a judicial officer for a particular offense or offender any sheriff or other peace officer may take bail in accordance with the provisions of Section 110--7 or 110--8 of this Code and release the offender to appear in accordance with the conditions of the bail bond, the Notice to Appear or the Summons. The officer shall give a receipt to the offender for the bail so taken and within a reasonable time deposit such bail with the clerk of the court having jurisdiction of the offense.

(Source: Laws 1963, p. 2836.)

(725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

Sec. 110-10. Conditions of bail bond.

(a) If a person is released prior to conviction, either upon payment of bail security or on his or her own recognizance, the conditions of the bail bond shall be that he or she will:

- (1) Appear to answer the charge in the court having jurisdiction on a day certain and thereafter as ordered by the court until discharged or final order of the court;
- (2) Submit himself or herself to the orders and process of the court;
- (3) Not depart this State without leave of the court;
- (4) Not violate any criminal statute of any jurisdiction;
- (5) At a time and place designated by the court, surrender all firearms in his or her possession to a law

enforcement officer designated by the court to take custody of and impound the firearms and physically surrender his or her Firearm Owner's Identification Card to the clerk of the circuit court when the offense the person has been charged with is a forcible felony, stalking, aggravated stalking, domestic battery, any violation of the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or the Cannabis Control Act that is classified as a Class 2 or greater felony, or any felony violation of Article 24 of the Criminal Code of 1961; the court may, however, forgo the imposition of this condition when the circumstances of the case clearly do not warrant it or when its imposition would be impractical; all legally possessed firearms shall be returned to the person upon the charges being dismissed, or if the person is found not guilty, unless the finding of not guilty is by reason of insanity; and

(6) At a time and place designated by the court, submit to a psychological evaluation when the person has been charged with a violation of item (4) of subsection (a) of Section 24-1 of the Criminal Code of 1961 and that violation occurred in a school or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity, or on any public way within 1,000 feet of real property comprising any school.

Psychological evaluations ordered pursuant to this Section shall be completed promptly and made available to the State, the defendant, and the court. As a further condition of bail under these circumstances, the court shall order the defendant to refrain from entering upon the property of the school, including any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity, or on any public way within 1,000 feet of real property comprising any school. Upon receipt of the psychological evaluation, either the State or the defendant may request a change in the conditions of bail, pursuant to Section 110-6 of this Code. The court may change the conditions of bail to include a requirement that the defendant follow the recommendations of the psychological evaluation, including undergoing psychiatric treatment. The conclusions of the psychological evaluation and any statements elicited from the defendant during its administration are not admissible as evidence of guilt during the course of any trial on the charged offense, unless the defendant places his or her mental competency in issue.

(b) The court may impose other conditions, such as the following, if the court finds that such conditions are reasonably necessary to assure the defendant's appearance in court, protect the public from the defendant, or prevent the defendant's unlawful interference with the orderly administration of justice:

- (1) Report to or appear in person before such person or agency as the court may direct;
- (2) Refrain from possessing a firearm or other dangerous weapon;

- (3) Refrain from approaching or communicating with particular persons or classes of persons;
- (4) Refrain from going to certain described geographical areas or premises;
- (5) Refrain from engaging in certain activities or indulging in intoxicating liquors or in certain drugs;
- (6) Undergo treatment for drug addiction or alcoholism;
- (7) Undergo medical or psychiatric treatment;
- (8) Work or pursue a course of study or vocational training;
- (9) Attend or reside in a facility designated by the court;
- (10) Support his or her dependents;
- (11) If a minor resides with his or her parents or in a foster home, attend school, attend a non-residential program for youths, and contribute to his or her own support at home or in a foster home;
- (12) Observe any curfew ordered by the court;
- (13) Remain in the custody of such designated person or organization agreeing to supervise his release. Such third party custodian shall be responsible for notifying the court if the defendant fails to observe the conditions of release which the custodian has agreed to monitor, and shall be subject to contempt of court for failure so to notify the court;
- (14) Be placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity with or without the use of an approved electronic monitoring device subject to Article 8A of Chapter V of the Unified Code of Corrections;
 - (14.1) The court shall impose upon a defendant who is charged with any alcohol, cannabis, methamphetamine, or controlled substance violation and is placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity with the use of an approved monitoring device, as a condition of such bail bond, a fee that represents costs incidental to the electronic monitoring for each day of such bail supervision ordered by the court, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the substance abuse services fund under Section 5-1086.1 of the Counties Code;
 - (14.2) The court shall impose upon all defendants, including those defendants subject to paragraph (14.1) above, placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity with the use of an approved monitoring device, as a condition of such bail bond, a fee which shall represent costs incidental to such electronic monitoring for each

day of such bail supervision ordered by the court, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be;

(14.3) The Chief Judge of the Judicial Circuit may establish reasonable fees to be paid by a person receiving pretrial services while under supervision of a pretrial services agency, probation department, or court services department. Reasonable fees may be charged for pretrial services including, but not limited to, pretrial supervision, diversion programs, electronic monitoring, victim impact services, drug and alcohol testing, DNA testing, GPS electronic monitoring, assessments and evaluations related to domestic violence and other victims, and victim mediation services. The person receiving pretrial services may be ordered to pay all costs incidental to pretrial services in accordance with his or her ability to pay those costs;

(14.4) For persons charged with violating Section 11-501 of the Illinois Vehicle Code, refrain from operating a motor vehicle not equipped with an ignition interlock device, as defined in Section 1-129.1 of the Illinois Vehicle Code, pursuant to the rules promulgated by the Secretary of State for the installation of ignition interlock devices. Under this condition the court may allow a defendant who is not self-employed to operate a vehicle owned by the defendant's employer that is not equipped with an ignition interlock device in the course and scope of the defendant's employment;

(15) Comply with the terms and conditions of an order of protection issued by the court under the Illinois Domestic Violence Act of 1986 or an order of protection issued by the court of another state, tribe, or United States territory;

(16) Under Section 110-6.5 comply with the conditions of the drug testing program; and

(17) Such other reasonable conditions as the court may impose.

(c) When a person is charged with an offense under Section 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of 1961", involving a victim who is a minor under 18 years of age living in the same household with the defendant at the time of the offense, in granting bail or releasing the defendant on his own recognizance, the judge shall impose conditions to restrict the defendant's access to the victim which may include, but are not limited to conditions that he will:

1. Vacate the Household.
2. Make payment of temporary support to his dependents.
3. Refrain from contact or communication with the

child victim, except as ordered by the court.

(d) When a person is charged with a criminal offense and the victim is a family or household member as defined in Article 112A, conditions shall be imposed at the time of the defendant's release on bond that restrict the defendant's access to the victim. Unless provided otherwise by the court, the restrictions shall include requirements that the defendant do the following:

(1) refrain from contact or communication with the victim for a minimum period of 72 hours following the defendant's release; and

(2) refrain from entering or remaining at the victim's residence for a minimum period of 72 hours following the defendant's release.

(e) Local law enforcement agencies shall develop standardized bond forms for use in cases involving family or household members as defined in Article 112A, including specific conditions of bond as provided in subsection (d). Failure of any law enforcement department to develop or use those forms shall in no way limit the applicability and enforcement of subsections (d) and (f).

(f) If the defendant is admitted to bail after conviction the conditions of the bail bond shall be that he will, in addition to the conditions set forth in subsections (a) and (b) hereof:

(1) Duly prosecute his appeal;

(2) Appear at such time and place as the court may direct;

(3) Not depart this State without leave of the court;

(4) Comply with such other reasonable conditions as the court may impose; and

(5) If the judgment is affirmed or the cause reversed and remanded for a new trial, forthwith surrender to the officer from whose custody he was bailed.

(g) Upon a finding of guilty for any felony offense, the defendant shall physically surrender, at a time and place designated by the court, any and all firearms in his or her possession and his or her Firearm Owner's Identification Card as a condition of remaining on bond pending sentencing.

(Source: P.A. 95-331, eff. 8-21-07; 96-340, eff. 8-11-09.)

(725 ILCS 5/110-11) (from Ch. 38, par. 110-11)

Sec. 110-11. Bail on a new trial.

If the judgment of conviction is reversed and the cause remanded for a new trial the trial court may order that the bail stand pending such trial, or reduce or increase bail.

(Source: Laws 1963, p. 2836.)

(725 ILCS 5/110-12) (from Ch. 38, par. 110-12)

Sec. 110-12. Notice of change of address.

A defendant who has been admitted to bail shall file a written notice with the clerk of the court before which the proceeding is pending of any change in his or her address

within 24 hours after such change, except that a defendant who has been admitted to bail for a forcible felony as defined in Section 2-8 of the Criminal Code of 1961 shall file a written notice with the clerk of the court before which the proceeding is pending and the clerk shall immediately deliver a time stamped copy of the written notice to the State's Attorney charged with the prosecution within 24 hours prior to such change. The address of a defendant who has been admitted to bail shall at all times remain a matter of public record with the clerk of the court.

(Source: P.A. 89-377, eff. 8-18-95.)

(725 ILCS 5/110-13) (from Ch. 38, par. 110-13)

Sec. 110-13. Persons prohibited from furnishing bail security.

No attorney at law practicing in this State and no official authorized to admit another to bail or to accept bail shall furnish any part of any security for bail in any criminal action or any proceeding nor shall any such person act as surety for any accused admitted to bail.

(Source: Laws 1963, p. 2836.)

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

Sec. 110-14. Credit for Incarceration on Bailable Offense.

(a) Any person incarcerated on a bailable offense who does not supply bail and against whom a fine is levied on conviction of such offense shall be allowed a credit of \$5 for each day so incarcerated upon application of the defendant. However, in no case shall the amount so allowed or credited exceed the amount of the fine.

(b) Subsection (a) does not apply to a person incarcerated for sexual assault as defined in paragraph (1) of subsection (a) of Section 5-9-1.7 of the Unified Code of Corrections.

(Source: P.A. 93-699, eff. 1-1-05.)

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

Sec. 110-15. Applicability of provisions for giving and taking bail.

The provisions of Sections 110-7 and 110-8 of this Code are exclusive of other provisions of law for the giving, taking, or enforcement of bail. In all cases where a person is admitted to bail the provisions of Sections 110--7 and 110--8 of this Code shall be applicable.

However, the Supreme Court may, by rule or order, prescribe a uniform schedule of amounts of bail in specified traffic and conservation cases, quasi-criminal offenses, and misdemeanors. Such uniform schedule may provide that the cash deposit provisions of Section 110--7 shall not apply to bail amounts established for alleged violations punishable by fine alone, and the schedule may further provide that in specified

traffic cases a valid Illinois chauffeur's or operator's license must be deposited, in addition to 10% of the amount of the bail specified in the schedule.

(Source: Laws 1967, p. 2969.)

(725 ILCS 5/110-16) (from Ch. 38, par. 110-16)

Sec. 110-16. Bail bond-forfeiture in same case or absents self during trial-not bailable.

If a person admitted to bail on a felony charge forfeits his bond and fails to appear in court during the 30 days immediately after such forfeiture, on being taken into custody thereafter he shall not be bailable in the case in question, unless the court finds that his absence was not for the purpose of obstructing justice or avoiding prosecution.

(Source: P. A. 77-1447.)

(725 ILCS 5/110-17) (from Ch. 38, par. 110-17)

Sec. 110-17. Unclaimed Bail Deposits. Notwithstanding the provisions of the Uniform Disposition of Unclaimed Property Act, any sum of money deposited by any person to secure his release from custody which remains unclaimed by the person entitled to its return for 3 years after the conditions of the bail bond have been performed and the accused has been discharged from all obligations in the cause shall be presumed to be abandoned.

(a) The clerk of the circuit court, as soon thereafter as practicable, shall cause notice to be published once, in English, in a newspaper or newspapers of general circulation in the county wherein the deposit of bond was received.

(b) The published notice shall be entitled "Notice of Persons Appearing to be Owners of Abandoned Property" and shall contain:

(1) The names, in alphabetical order, of persons to whom the notice is directed.

(2) A statement that information concerning the amount of the property may be obtained by any persons possessing an interest in the property by making an inquiry at the office of the clerk of the circuit court at a location designated by him.

(3) A statement that if proof of claim is not presented by the owner to the clerk of the circuit court and if the owner's right to receive the property is not established to the satisfaction of the clerk of the court within 65 days from the date of the published notice, the abandoned property will be placed in the custody of the treasurer of the county, not later than 85 days after such publication, to whom all further claims must thereafter be directed. If the claim is established as aforesaid and after deducting an amount not to exceed \$20 to cover the cost of notice publication and related clerical expenses, the clerk of the court shall make payment to the person entitled thereto.

(4) The clerk of the circuit court is not required to publish in such notice any items of less than \$100 unless he

deems such publication in the public interest.

(c) Any clerk of the circuit court who has caused notice to be published as provided by this Section shall, within 20 days after the time specified in this Section for claiming the property from the clerk of the court, pay or deliver to the treasurer of the county having jurisdiction of the offense, whether the bond was taken there or any other county, all sums deposited as specified in this section less such amounts as may have been returned to the persons whose rights to receive the sums deposited have been established to the satisfaction of the clerk of the circuit court. Any clerk of the circuit court who transfers such sums to the county treasury including sums deposited by persons whose names are not required to be set forth in the published notice aforesaid, is relieved of all liability for such sums as have been transferred as unclaimed bail deposits or any claim which then exists or which thereafter may arise or be made in respect to such sums.

(d) The treasurer of the county shall keep just and true accounts of all moneys paid into the treasury, and if any person appears within 5 years after the deposit of moneys by the clerk of the circuit court and claims any money paid into the treasury, he shall file a claim therefor on the form prescribed by the treasurer of the county who shall consider any claim filed under this Act and who may, in his discretion, hold a hearing and receive evidence concerning it. The treasurer of the county shall prepare a finding and the decision in writing on each hearing, stating the substance of any evidence heard by him, his findings of fact in respect thereto, and the reasons for his decision. The decision shall be a public record.

(e) All claims which are not filed within the 5 year period shall be forever barred.

(Source: P.A. 85-768.)

(725 ILCS 5/110-18) (from Ch. 38, par. 110-18)

Sec. 110-18. Reimbursement. The sheriff of each county shall certify to the treasurer of each county the number of days that persons had been detained in the custody of the sheriff without a bond being set as a result of an order entered pursuant to Section 110-6.1 of this Code. The county treasurer shall, no later than January 1, annually certify to the Supreme Court the number of days that persons had been detained without bond during the twelve-month period ending November 30. The Supreme Court shall reimburse, from funds appropriated to it by the General Assembly for such purposes, the treasurer of each county an amount of money for deposit in the county general revenue fund at a rate of \$50 per day for each day that persons were detained in custody without bail as a result of an order entered pursuant to Section 110-6.1 of this Code.

(Source: P.A. 85-892.)