

West's Smith-Hurd Illinois Compiled Statutes Annotated

Chapter 725. Criminal Procedure

Act 5. Code of Criminal Procedure of 1963 (Refs & Annos)

Title III. Proceedings After Arrest

Article 110. Pretrial Release (Refs & Annos)

725 ILCS 5/110-10  
Formerly cited as IL ST CH 38 ¶ 110-10

## 5/110-10. Conditions of pretrial release

Effective: January 1, 2023

Currentness

§ 110-10. Conditions of pretrial release.

(a) If a person is released prior to conviction, the conditions of pretrial release 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) (Blank);

(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,<sup>1</sup> the Methamphetamine Control and Community Protection Act, or the Cannabis Control Act<sup>2</sup> that is classified as a Class 2 or greater felony, or any felony violation of Article 24 of the Criminal Code of 1961 or the Criminal Code of 2012;<sup>3</sup> 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; if the Firearm Owner's Identification Card is confiscated, the clerk of the circuit court shall mail the confiscated card to the Illinois State Police; 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 or the Criminal Code of 2012<sup>4</sup> 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 pretrial release 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 pretrial release, pursuant to Section 110-6 of this Code. The court may change the conditions of pretrial release 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) Additional conditions of release shall be set only when it is determined that they are necessary to ensure the defendant's appearance in court, ensure the defendant does not commit any criminal offense, ensure the defendant complies with all conditions of pretrial release, prevent the defendant's unlawful interference with the orderly administration of justice, or ensure compliance with the rules and procedures of problem solving courts. However, conditions shall include the least restrictive means and be individualized. Conditions shall not mandate rehabilitative services unless directly tied to the risk of pretrial misconduct. Conditions of supervision shall not include punitive measures such as community service work or restitution. Conditions may include the following:

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

(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 geographic areas or premises;

(5) Be placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial 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;<sup>5</sup>

(6) For persons charged with violating Section 11-501 of the Illinois Vehicle Code,<sup>6</sup> 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,<sup>7</sup> 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;

(7) Comply with the terms and conditions of an order of protection issued by the court under the Illinois Domestic Violence Act of 1986<sup>8</sup> or an order of protection issued by the court of another state, tribe, or United States territory;

(8) Sign a written admonishment requiring that he or she 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 record with the clerk of the court; and

(9) Such other reasonable conditions as the court may impose, so long as these conditions are the least restrictive means to achieve the goals listed in subsection (b), are individualized, and are in accordance with national best practices as detailed in the Pretrial Supervision Standards of the Supreme Court.

The defendant shall receive verbal and written notification of conditions of pretrial release and future court dates, including the date, time, and location of court.

(c) When a person is charged with an offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012,<sup>9</sup> 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 releasing the defendant, 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 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 pretrial release forms for use in cases involving family or household members as defined in Article 112A, including specific conditions of pretrial release 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 released after conviction following appeal or other post-conviction proceeding, the conditions of the pretrial release 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 released.
  
- (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 being released pending sentencing.

#### Credits

Laws 1963, p. 2836, § 110-10, eff. Jan. 1, 1964. Amended by P.A. 76-1394, § 1, eff. Sept. 19, 1969; P.A. 79-818, § 1, eff. Oct. 1, 1975; P.A. 81-1509, Art. II, § 42, eff. Sept. 26, 1980; P.A. 82-353, § 1, eff. Sept. 2, 1981; P.A. 84-945, § 2, eff. Sept.

25, 1985; P.A. 85-768, § 1, eff. Jan. 1, 1988; P.A. 85-1287, § 1, eff. Jan. 1, 1989; P.A. 86-1281, § 2, eff. Jan. 1, 1991; P.A. 87-805, § 2, eff. Dec. 16, 1991; P.A. 87-1186, § 1, eff. Jan. 1, 1993; P.A. 88-677, § 30, eff. Dec. 15, 1994; P.A. 88-679, § 40, eff. July 1, 1995; P.A. 88-680, Art. 30, § 30-910, eff. Jan. 1, 1995; P.A. 89-235, Art. 2, § 2-140, eff. Aug. 4, 1995; P.A. 89-428, Art. 2, § 270, eff. Dec. 13, 1995; P.A. 89-462, Art. 2, § 270, eff. May 29, 1996; P.A. 90-399, § 10, eff. Jan. 1, 1998; P.A. 91-11, § 15, eff. June 4, 1999; P.A. 91-312, § 5, eff. Jan. 1, 2000. Re-enacted by P.A. 91-696, Art. 30, § 30-910, eff. April 13, 2000. Amended by P.A. 91-903, § 5, eff. Jan. 1, 2001; P.A. 92-329, § 10, eff. Aug. 9, 2001; P.A. 92-442, § 10, eff. Aug. 17, 2001; P.A. 92-651, § 82, eff. July 11, 2002; P.A. 93-184, § 5, eff. Jan. 1, 2004; P.A. 94-556, § 1080, eff. Sept. 11, 2005; P.A. 94-590, § 5, eff. Jan. 1, 2006; P.A. 95-331, § 1050, eff. Aug. 21, 2007; P.A. 96-340, § 5, eff. Aug. 11, 2009; P.A. 96-1551, Art. 2, § 1040, eff. July 1, 2011; P.A. 97-401, § 5, eff. Jan. 1, 2012; P.A. 97-1109, § 15-60, eff. Jan. 1, 2013; P.A. 97-1150, § 635, eff. Jan. 25, 2013; P.A. 99-797, § 5, eff. Aug. 12, 2016; P.A. 101-138, § 5, eff. Jan. 1, 2020; P.A. 101-652, § 10-255, eff. Jan. 1, 2023; P.A. 102-1104, § 70, eff. Jan. 1, 2023.

**Formerly** Ill.Rev.Stat.1991, ch. 38, ¶ 110-10.

#### Footnotes

1

720 ILCS 570/100 et seq.

2

720 ILCS 550/1 et seq.

3

720 ILCS 5/24-1 et seq.

4

720 ILCS 5/24-1.

5

730 ILCS 5/5-8A-1 et seq.

6

625 ILCS 5/11-501.

7

625 ILCS 5/1-129.

8

750 ILCS 60/101 et seq.

9

720 ILCS 5/11-1.20, 5/11-1.30, 5/11-1.40, 5/11-1.50, 5/11-1.60, 5/12-13, 5/12-14, 5/12-14.1, 5/12-15 or 5/12-16.

725 I.L.C.S. 5/110-10, IL ST CH 725 § 5/110-10

Current through P.A. 103-471 of the 2023 Reg. Sess. Some statute sections may be more current, see credits for details.

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