

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 5/110-6
Formerly cited as IL ST CH 38 ¶ 110-6

5/110-6. Revocation of pretrial release, modification of conditions of pretrial release, and sanctions for violations of conditions of pretrial release

Effective: January 1, 2023

Currentness

§ 110-6. Revocation of pretrial release, modification of conditions of pretrial release, and sanctions for violations of conditions of pretrial release.

(a) When a defendant has previously been granted pretrial release under this Section for a felony or Class A misdemeanor, that pretrial release may be revoked only if the defendant is charged with a felony or Class A misdemeanor that is alleged to have occurred during the defendant's pretrial **release after a hearing on the court's own motion or upon the filing of a verified petition by the State.**

When a defendant released pretrial is charged with a violation of a protective order or was previously convicted of a violation of a protective order and the subject of the protective order is the same person as the victim in the current underlying matter, the State shall file a verified petition seeking revocation of pretrial release.

Upon the filing of a petition or upon motion of the court seeking revocation, the court shall order the transfer of the defendant and the petition or motion to the court before which the previous felony or Class A misdemeanor is pending. The defendant may be held in custody pending transfer to and a hearing before such court. The defendant shall be transferred to the court before which the previous matter is pending without unnecessary delay, and **the revocation hearing shall occur within 72 hours of the filing of the State's petition or the court's motion for revocation.**

A hearing at which pretrial release may be revoked must be conducted in person (and not by way of two-way audio-visual communication) unless the accused waives the right to be present physically in court, the court determines that the physical health and safety of any person necessary to the proceedings would be endangered by appearing in court, or the chief judge of the circuit orders use of that system due to operational challenges in conducting the hearing in person. Such operational challenges must be documented and approved by the chief judge of the circuit, and a plan to address the challenges through reasonable efforts must be presented and approved by the Administrative Office of the Illinois Courts every 6 months.

The court before which the previous felony matter or Class A misdemeanor is pending may revoke the defendant's pretrial release after a hearing. During the hearing for revocation, the defendant shall be represented by counsel and have an opportunity

to be heard regarding the violation and evidence in mitigation. The court shall consider all relevant circumstances, including, but not limited to, the nature and seriousness of the violation or criminal act alleged. The State shall bear the burden of proving, by clear and convincing evidence, that no condition or combination of conditions of release would reasonably ensure the appearance of the defendant for later hearings or prevent the defendant from being charged with a subsequent felony or Class A misdemeanor.

In lieu of revocation, the court may release the defendant pre-trial, with or without modification of conditions of pretrial release.

If the case that caused the revocation is dismissed, the defendant is found not guilty in the case causing the revocation, or the defendant completes a lawfully imposed sentence on the case causing the revocation, the court shall, without unnecessary delay, hold a hearing on conditions of pretrial release pursuant to Section 110-5 and release the defendant with or without modification of conditions of pretrial release.

Both the State and the defendant may appeal an order revoking pretrial release or denying a petition for revocation of release.

(b) If a defendant previously has been granted pretrial release under this Section for a Class B or Class C misdemeanor offense, a petty or business offense, or an ordinance violation and if the defendant is subsequently charged with a felony that is alleged to have occurred during the defendant's pretrial release or a Class A misdemeanor offense that is alleged to have occurred during the defendant's pretrial release, such pretrial release may not be revoked, but the court may impose sanctions under subsection (c).

(c) The court shall follow the procedures set forth in Section 110-3 to ensure the defendant's appearance in court if the defendant:

(1) fails to appear in court as required by the defendant's conditions of release;

(2) is charged with a felony or Class A misdemeanor offense that is alleged to have occurred during the defendant's pretrial release after having been previously granted pretrial release for a Class B or Class C misdemeanor, a petty or business offense, or an ordinance violation that is alleged to have occurred during the defendant's pretrial release;

(3) is charged with a Class B or C misdemeanor offense, petty or business offense, or ordinance violation that is alleged to have occurred during the defendant's pretrial release; or

(4) violates any other condition of pretrial release set by the court.

In response to a violation described in this subsection, the court may issue a warrant specifying that the defendant must appear before the court for a hearing for sanctions and may not be released by law enforcement before that appearance.

(d) When a defendant appears in court pursuant to a summons or warrant issued in accordance with Section 110-3 or after being arrested for an offense that is alleged to have occurred during the defendant's pretrial release, the State may file a verified petition requesting a hearing for sanctions.

(e) During the hearing for sanctions, the defendant shall be represented by counsel and have an opportunity to be heard regarding the violation and evidence in mitigation. The State shall bear the burden of proving by clear and convincing evidence that:

- (1) the defendant committed an act that violated a term of the defendant's pretrial release;
- (2) the defendant had actual knowledge that the defendant's action would violate a court order;
- (3) the violation of the court order was willful; and
- (4) the violation was not caused by a lack of access to financial monetary resources.

(f) Sanctions for violations of pretrial release may include:

- (1) a verbal or written admonishment from the court;
- (2) imprisonment in the county jail for a period not exceeding 30 days;
- (3) (Blank); or
- (4) a modification of the defendant's pretrial conditions.

(g) The court may, at any time, after motion by either party or on its own motion, remove previously set conditions of pretrial release, subject to the provisions in this subsection. The court may only add or increase conditions of pretrial release at a hearing under this Section.

The court shall not remove a previously set condition of pretrial release regulating contact with a victim or witness in the case, unless the subject of the condition has been given notice of the hearing as required in paragraph (1) of subsection (b) of Section 4.5 of the Rights of Crime Victims and Witnesses Act. If the subject of the condition of release is not present, the court shall

follow the procedures of paragraph (10) of subsection (c-1) of the Rights of Crime Victims and Witnesses Act.

(h) Crime victims shall be given notice by the State's Attorney's office of all hearings under this Section as required in paragraph (1) of subsection (b) of Section 4.5 of the Rights of Crime Victims and Witnesses Act and shall be informed of their opportunity at these hearings to obtain a protective order.

(i) Nothing in this Section shall be construed to limit the State's ability to file a verified petition seeking denial of pretrial release under subsection (a) of Section 110-6.1 or subdivision (d)(2) of Section 110-6.1.

(j) At each subsequent appearance of the defendant before the court, the judge must find that continued detention under this Section is necessary to reasonably ensure the appearance of the defendant for later hearings or to prevent the defendant from being charged with a subsequent felony or Class A misdemeanor.

Credits

Laws 1963, p. 2836, § 110-6, eff. Jan. 1, 1964. Amended by P.A. 79-818, § 1, eff. Oct. 1, 1975; P.A. 80-945, § 1, eff. Oct. 1, 1977; P.A. 82-470, § 1, eff. Jan. 1, 1982; P.A. 82-1027, § 1, eff. Dec. 15, 1982; P.A. 86-984, § 1, eff. Dec. 13, 1989; P.A. 87-870, § 2, eff. July 12, 1992; P.A. 87-871, § 2, eff. July 12, 1992; P.A. 93-417, § 10, eff. Aug. 5, 2003; P.A. 94-556, § 1080, eff. Sept. 11, 2005; P.A. 97-1150, § 635, eff. Jan. 25, 2013; P.A. 100-1, § 1-10, eff. Jan. 1, 2018; P.A. 100-929, § 5, eff. Jan. 1, 2019; 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, ¶ 110-6.

725 I.L.C.S. 5/110-6, IL ST CH 725 § 5/110-6

Current through P.A. 103-539 of the 2023 Reg. Sess. Some statute sections may be more current, see credits for details.

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