

# **Bail Reform Act of 2017**

## **Public Act 100-001 (SB2034)**

### **Changes which are Effective Immediately:**

#### **RICO Extension (Criminal Code of 2012)**

- Amends Section 33G-9 to extend the sunset of the RICO Article to June 11, 2022 (previously June 11, 2017).

### **Changes which are Effective January 1, 2018:**

#### **Right to Counsel in Bail Hearings (Code of Criminal Procedure)**

- Provides a right to counsel at bail hearings. If the defendant desires counsel but cannot afford it, the court shall appoint a public defender or other licensed attorney.

#### **Presumption of Non-Monetary Bail (Code of Criminal Procedure)**

- Creates a presumption that any conditions of release shall be non-monetary, and the court shall impose the least restrictive conditions necessary to reasonably assure the defendant's appearance at future hearings, safeguard the public, and protect the integrity of judicial proceedings.
- Requires the court to consider the defendant's socio-economic circumstances when imposing bail or setting conditions of release.

#### **Automatic 2<sup>nd</sup> Look Bail Hearings (Code of Criminal Procedure)**

- Creates "Category A" offenses: Class X, 1, & 2 felonies, first degree murder, other violent felonies and violent misdemeanors (see attached list).
- Creates "Category B" offenses: business & petty offenses, misdemeanors, Class 3 & 4 felonies.
- Persons in custody for category B offenses due to inability to post monetary bail must be brought before the court at the next available court date or within 7 calendar days (whichever is earlier) for a rehearing on the amount of bail/conditions of release.

#### **Bail Credit for Time Served (Code of Criminal Procedure)**

- Persons subject to bail on category B offenses shall have \$30 deducted from their monetary bail for every day incarcerated. A review of case law suggests that the legislation intends that this amount would be deducted from the total bail amount ordered, not from the 10% cash bond required to secure release.

#### **Statewide Risk Assessment Tool (Code of Criminal Procedure)**

- Encourages the Illinois Supreme Court to adopt a statewide risk assessment tool for use in bail proceedings which assesses whether the defendant poses a real and present threat to safety and assesses his/her likelihood of appearing at future proceedings.
- Encourages the Supreme Court to adopt a risk assessment tool which does not discriminate on the basis of race, gender, education level, or socio-economic status.

#### **Amends the Crime of "Threatening a Public Official" (Criminal Code of 2012)**

- Adds attorneys and persons employed by the Guardianship & Advocacy Commission, and guardians, attorneys, social workers, case managers, and investigators employed by public guardians to the definition of "public official."



### Category A Offenses

All Class X felonies

All Class 1 felonies

All Class 2 felonies

First degree murder (720 ILCS 5/9-1)

The following Class 3 and 4 felonies, specifically:

- Fleeing/attempting to elude a peace officer (625 ILCS 5/11-204)
- 2<sup>nd</sup>/subsequent DUI (625 ILCS 5/11-501)
- Aggravated DUI (625 ILCS 5/11-501(d))
- Leaving the scene of an accident resulting in injury; failure to report within 30 minutes (625 ILCS 5/11-401)
- Involuntary manslaughter or reckless homicide (720 ILCS 5/9-3)
- Concealing a homicidal death (720 ILCS 5/9-3.4)
- Unlawful restraint (720 ILCS 5/10-3)
- Aggravated unlawful restraint (720 ILCS 5/10-3.1)
- Child abduction (720 ILCS 5/10-5)
- Indecent solicitation of a child (720 ILCS 5/11-6)
- Custodial sexual misconduct (720 ILCS 5/11-9.2)
- Child pornography (720 ILCS 5/11-20.1)
- Non-consensual dissemination of private sexual images (720 ILCS 5/11-23.5)
- Grooming (720 ILCS 5/11-25)
- Aggravated assault w/ a weapon or motor vehicle (720 ILCS 5/12.2)
- Aggravated battery (720 ILCS 5/12-3.05)
- Domestic battery (720 ILCS 5/12-3.2)
- Violation of an order of protection (720 ILCS 5/12-3.4)
- Criminal abuse/neglect of an elderly person/LTC resident/disabled person (720 ILCS 5/12-4.4a)
- Reckless conduct causing great bodily harm/permanent disability or disfigurement of another (720 ILCS 5/12-5)
- Intimidation (720 ILCS 5/12-6)
- Hate crime (720 ILCS 5/12-7.1)
- Stalking (720 ILCS 5/12-7.3)
- Aggravated stalking (720 ILCS 5/12-7.4)
- Cyberstalking (720 ILCS 5/12-7.5)
- Endangering the life or health of a child (720 ILCS 5/12C-5)
- Reckless discharge of a firearm (720 ILCS 5/24-1.5)
- Unlawful sale/delivery of firearms (720 ILCS 5/24-3)
- Mob action (720 ILCS 5/25-1)
- Harassment by telephone (720 ILCS 5/26.5-2)
- Dogfighting (720 ILCS 5/48-1)
- Involuntary servitude (720 ILCS 5/10-9(b)(5) or (6))
- Criminal sexual abuse (720 ILCS 5/11-1.50(a)(1) or (2))
- Compelling a confession or information by infliction or threat of bodily harm (720 ILCS 5/12-7)
- False personation of a peace officer (720 ILCS 5/17-2(b)(3))
- Unlawful use of a weapon, sawed-off or silencer (720 ILCS 5/24-1(a)(7)(ii) or (a)(6))
- Failure to register as a sex offender (730 ILCS 150/10)

The following Class A, B, and C misdemeanors, specifically:

- Aggravated assault (720 ILCS 5/12.2)
- Battery (720 ILCS 5/12-3)
- Domestic battery (720 ILCS 5/12-3.2)
- Violation of an order of protection (720 ILCS 5/12-3.4)
- Reckless conduct causing bodily harm/endangering safety of another (720 ILCS 5/12-5)
- Endangering the life or health of a child (720 ILCS 5/12C-5)
- Unlawful sale/delivery of firearms (720 ILCS 5/24-3)
- Mob action (720 ILCS 5/25-1)
- Harassment by telephone (720 ILCS 5/26.5-2)
- Criminal sexual abuse (720 ILCS 5/11-1.50(b) or (c))

### Category B Offenses

Business offenses

Petty offenses

Class A, B and C misdemeanors, other than those specified as Category A

Class 3 and 4 felonies, other than those specified as Category A