

Current as of December 12, 2022 (post-PFA Trailer Bill)

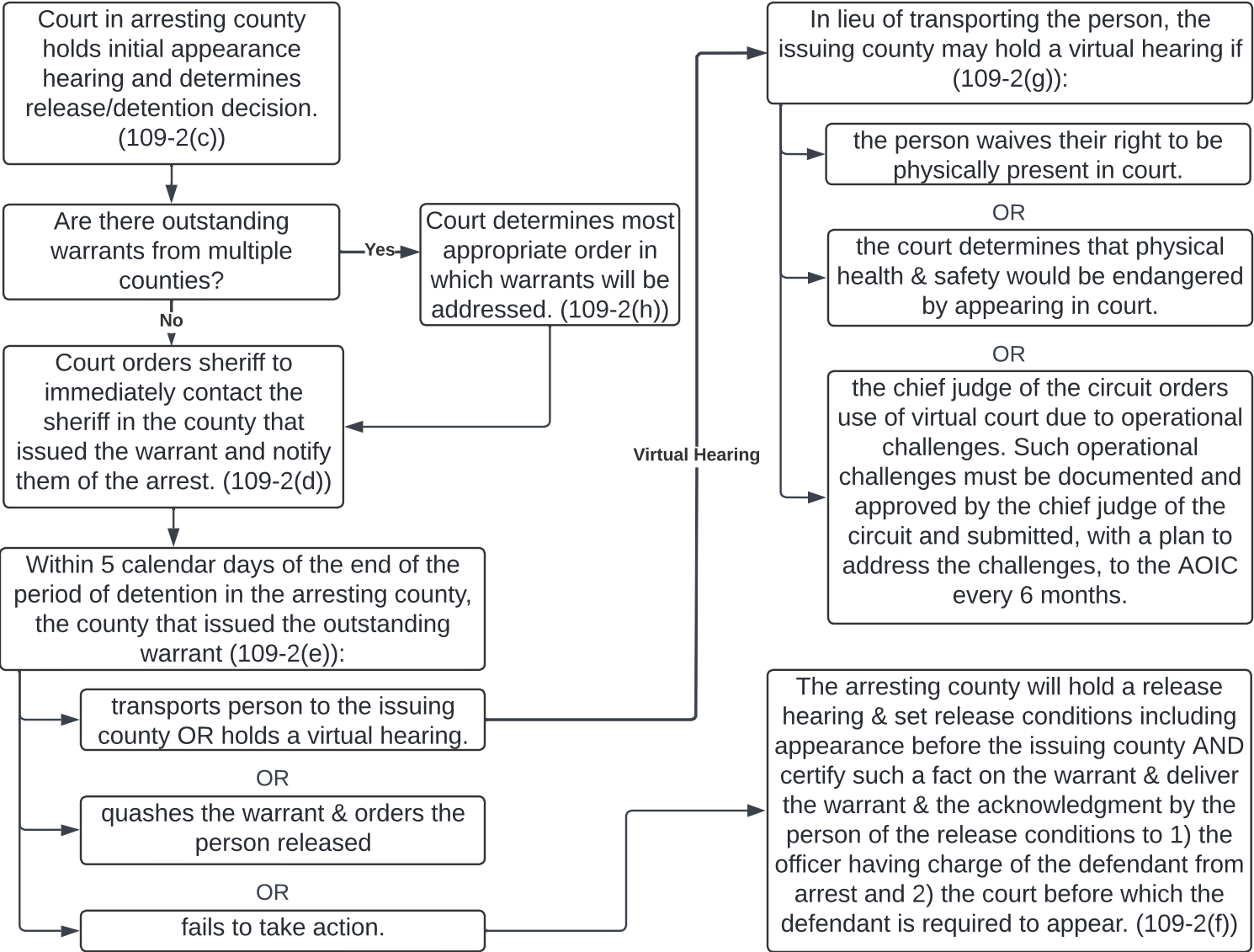
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The text in the flowchart is taken directly from the law with slight editing for brevity. Please see the accompanying considerations document for exact statute language and descriptions of nuances in the law.

Out of County Warrants

Person is held for initial appearance before a judge and has one or more outstanding warrants issued by other Illinois counties.

For outstanding warrants issued by an out-of-state agency, the Uniform Criminal Extradition Act shall govern (109-2(j)).



*Unless otherwise noted, all statutory references are to sections under 725 ILCS 5

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Illinois Pretrial Implementation Task Force Pretrial Fairness Act Key Provisions and Implementation Considerations

Out of County Warrants

725 ILCS 5 Reference	Description	Considerations
109-2(a)	“Any person arrested in a county other than the one in which a warrant for his arrest was issued shall be taken without unnecessary delay before the nearest and most accessible judge in the county where the arrest was made or, if no additional delay is created, before the nearest and most accessible judge in the county from which the warrant was issued. The judge may hold a hearing to determine if the defendant is the same person as named in the warrant.”	<u>Interpretation Considerations</u> <ul style="list-style-type: none">• Allows for a person arrested on a warrant to be taken before a judge in the county of the arrest or, if it causes no additional delay, in the county from which the warrant was issued. <u>Operational Considerations</u> <ul style="list-style-type: none">• Circuits and counties may want to work with local law enforcement organizations to outline a communications protocol.• Counties concerned about transportation requirements under this section can refer to subsection (g) for guidance on remote appearances.
109-2 (b)	“Notwithstanding the provisions of subsection (a), any person arrested in a county other than the one in which a warrant for his arrest was issued, may waive the right to be taken before a judge in the county where the arrest was made. If a person so arrested waives such	<u>Interpretation Considerations</u> <ul style="list-style-type: none">• The person arrested may waive the right to be taken before a judge in the arresting county. If this waiver occurs, the arresting agency shall surrender the person to the county that issued the warrant. The person will then go through the initial appearance process as outlined in 109-1.

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	right, the arresting agency shall surrender such person to a law enforcement agency of the county that issued the warrant without unnecessary delay. The provisions of Section 109-1 shall then apply to the person so arrested.”	<p><u>Operational Considerations</u></p> <ul style="list-style-type: none"> • Circuits and counties may want to work with local law enforcement organizations to outline a communications protocol. • Counties concerned about transportation requirements under this section can refer to subsection (g) for guidance on remote appearances.
109-2(c)	“If a person is taken before a judge in any county and a warrant for arrest issued by another Illinois county exists for that person, the court in the arresting county shall hold for that person a detention hearing under Section 110-6.1, or other hearing under Section 110-5 or Section 110-6.”	<p><u>Operational Considerations</u></p> <ul style="list-style-type: none"> • The Court will hold a release or detention hearing based on the charge of the new arrest.
109-2(d)	“After the court in the arresting county has determined whether the person shall be released or detained on the arresting offense, the court shall then order the sheriff to immediately contact the sheriff in any county where any warrant is outstanding and notify them of the arrest of the individual.”	<p><u>Operational Considerations</u></p> <ul style="list-style-type: none"> • Courts should consider if a new court order will need to be created with directives for contact with the other county. • If an existing policy/protocol is not in place, the arresting county’s sheriff will need to create a process for contacting the sheriff in the other county.
109-2(e)	“If a person has a warrant in another county for an offense, then, no later than 5 calendar days after the end of any detention issued on the charge in the arresting county, the county	<p><u>Interpretation Considerations</u></p> <ul style="list-style-type: none"> • Within 5 calendar days of the “end of any detention” period, the county from which the warrant was issued shall: <ul style="list-style-type: none"> ○ transport the person from the arresting county to the county from where the warrant is outstanding for a hearing for modification or

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	<p>where the warrant is outstanding shall do one of the following:</p> <p>(1) transport the person to the county where the warrant was issued for a hearing under Section 110-6 or 110-6.1 in the matter for which the warrant was issued; or</p> <p>(2) quash the warrant and order the person released on the case for which the warrant was issued only when the county that issued the warrant fails to transport the defendant in the timeline as proscribed.”</p>	<p>revocation or pretrial release or other response under 110-6 or 110-6.1</p> <p>OR</p> <ul style="list-style-type: none"> ○ Quash the warrant and order the person released if the defendant is not transported within the 5-day timeline. <p><u>Operational Considerations</u></p> <ul style="list-style-type: none"> ● County criminal justice stakeholders should ensure policy/protocol is in place to notify the county that issued the warrant of the new arrest and with the timeline for the 5 day window for transfer. ● Counties should develop processes and forms for requesting transport of persons arrested and quashing warrants within the 5-day timeline.
109-2(f)	<p>“If the issuing county fails to take any action under subsection (e) within 5 calendar days, the defendant shall be released from custody on the warrant, and the circuit judge or associate circuit judge in the county of arrest shall set conditions of release under Section 110-5 and shall admit the defendant to pretrial release for his or her appearance before the court named in the warrant. Upon releasing the defendant, the circuit judge or associate circuit judge shall certify such a fact on the warrant and deliver the warrant and the acknowledgment by the defendant of his or her receiving the conditions of pretrial release to the officer having charge of the defendant from arrest and without delay</p>	<p><u>Interpretation Considerations</u></p> <ul style="list-style-type: none"> ● If the county that issued the warrant fails to take any action within 5 calendar days, the court in the county of arrest will: <ul style="list-style-type: none"> ○ Hold a release hearing and set release conditions, including appearance before the court that issued the warrant. ○ Court shall certify such a fact on the warrant and deliver the warrant & the acknowledgment by the defendant of the release conditions to <ul style="list-style-type: none"> ■ the “officer having charge of the person from arrest” and ■ the court before which the person is required to appear <p><u>Operational Considerations</u></p> <ul style="list-style-type: none"> ● Counties should develop a process for scheduling release hearings for people whose detention period has ended and who have an outstanding warrant issued by another county and for whom the issuing county has not

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	deliver such warrant and such acknowledgment by the defendant of his or her receiving the conditions to the court before which the defendant is required to appear.”	<p>transported the person or quashed the warrant within 5 days of the end of the detention period.</p> <ul style="list-style-type: none"> • New forms should be created to certify the fact on the warrant and deliver the warrant and the defendant’s acknowledgment of any release conditions to the officer and the court that issued the warrant.
109-2(g)	<p>“If a person has a warrant in another county, in lieu of transporting the person to the issuing county as outlined in subsection (e), the issuing county may hold the hearing by way of a two-way audio-visual communication system if the accused waives the right to be physically present 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.”</p>	<p><u>Interpretation Considerations</u></p> <ul style="list-style-type: none"> • In lieu of transporting the person to the county that issued the warrant, the issuing county may hold a virtual hearing if the person waives their right to be physically present, etc. • If the issuing county chooses to hold a virtual hearing because of operational challenges, those challenges must be documented and approved by the circuit’s CJ and a plan to address the challenges with reasonable effort must be presented and approved by the AOIC every 6 months. <p><u>Operational Considerations:</u></p> <ul style="list-style-type: none"> • Counties should develop a process for scheduling and presenting the person in the county of the new arrest for the virtual hearing with the county that issued the warrant. • If the virtual hearing is held because of operational challenges, counties should document those challenges and a plan for addressing them that has been approved by the circuit’s CJ, and submit to the AOIC every 6 months.
109-2(h)	<p>“If more than 2 Illinois county warrants exist, the judge in the county of arrest shall order that the process described in subsections (d) through (f) occur in each county in whatever order the judge finds most appropriate. Each</p>	<p><u>Interpretation Considerations</u></p> <ul style="list-style-type: none"> • If warrants exist from multiple counties, the judge in the county of arrest shall order that this process occur in each county in whatever order the judge finds most appropriate.

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	judge in each subsequent county shall then follow the rules in this Section.”	<u>Operational Considerations</u> <ul style="list-style-type: none">• Counties should develop a court bench guide that directs judges to determine the most appropriate order of addressing outstanding warrants that have been issued from multiple counties.
109-2(i)	“This Section applies only to warrants issued by Illinois state, county, or municipal courts.”	<u>Interpretation Considerations</u> <ul style="list-style-type: none">• Does not apply to warrants issued outside of Illinois.
109-2(j)	“When an issuing agency is contacted by an out-of-state agency of a person arrested for any offense, or when an arresting agency is contacted by or contacts an out-of-state issuing agency, the Uniform Criminal Extradition Act shall govern.”	<u>Interpretation Considerations</u> <ul style="list-style-type: none">• For out-of-state warrants, the UCEA shall govern

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