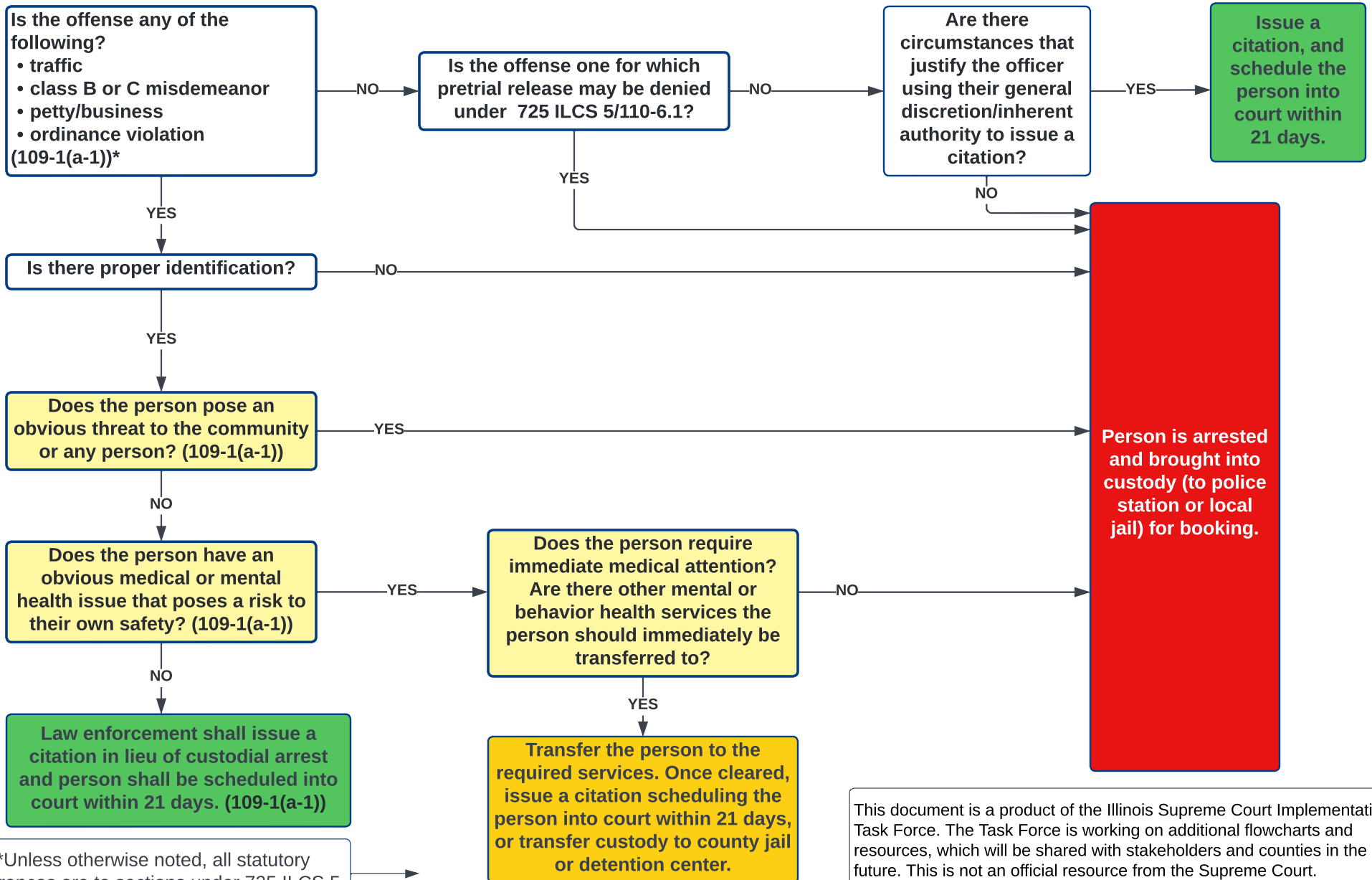


## Pretrial Fairness Act, Effective 1/1/2023

## Release by Citation



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

This document is a product of the Illinois Supreme Court Implementation Task Force. The Task Force is working on additional flowcharts and resources, which will be shared with stakeholders and counties in the future. This is not an official resource from the Supreme Court.

Revised August 24, 2022. Subject to Change.

Check <https://www.illinoiscourts.gov/courts/additional-resources/pretrial-implementation-task-force/> for latest updates. Email [pretrialtaskforce@illinoiscourts.gov](mailto:pretrialtaskforce@illinoiscourts.gov) with any questions or suggested additions to this list of implementation considerations.

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

**Use of Citations**

| HB3653 Reference           | Description   | Considerations   |
|----------------------------|---|--|
| <b>Release by Citation</b> |   |  |
| 109-1(a-1)                 | “Law enforcement shall issue a citation in lieu of custodial arrest, upon proper identification, for those accused of traffic and Class B and C criminal misdemeanor offenses, or of petty and business offenses, who pose no obvious threat to the community or any person, or who have no obvious medical or mental health issues that pose a risk to their own safety. Those released on citation shall be scheduled into court within 21 days.” | <p><u>Interpretation Considerations</u></p> <ul style="list-style-type: none"> <li>● Question of interpretation whether this language excludes traffic offenses that are Class A misdemeanor offenses.               <ul style="list-style-type: none"> <li>○ There are stakeholders who interpret this as excluding traffic offenses that are Class A Misdemeanors.</li> </ul> </li> <li>● Question of interpretation whether the person must appear in court within 21 days, or the court date must be scheduled within 21 days of arrest.</li> <li>● Please also see Illinois Supreme Court Rule 501(f)(i).</li> </ul> <p><u>Operational Considerations</u></p> <ul style="list-style-type: none"> <li>● Each law enforcement organization should provide operational guidance to their officers to ensure consistent application of this statute.               <ul style="list-style-type: none"> <li>○ E.g., provide guidance on what rises to the level of an “obvious threat”</li> <li>○ E.g., provide guidance on what qualifies as “obvious medical or mental health issues that pose a risk to their own safety”</li> </ul> </li> <li>● Law enforcement organizations will need to establish a standard for how to determine “proper identification” and address any problems with tracking SID</li> <li>● Law enforcement organizations will need new forms for issuing citations in the field. These forms should be clear about the conditions of release (i.e., return to court and no illegal behavior)</li> </ul> |

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|  |  | <ul style="list-style-type: none"><li>● Law enforcement do have discretion to remove the person from the location of the alleged criminal activity, and then cite and release the person from another location.</li><li>● Law enforcement organizations should consider developing a process and resources for officers to refer people to treatment opportunities, even if they are cited and released.<ul style="list-style-type: none"><li>○ Consider creating a resource card or brochure that lists local behavioral health resources that officers can provide people.</li><li>○ Coordination with emergency response operators (911 or 988) and implementation of the Community Emergency Services and Supports Act (CESSA) may be useful.</li></ul></li><li>● Law enforcement should train their officers in a consistent and comprehensive way on the statute, the new operational guidance, and any new forms or procedures.</li><li>● If the county has a court reminder system, consider developing a process to enroll people who are given a citation into that system.</li><li>● Courts will need to consider how to respond to an increased volume of people appearing at first appearance who will not have been fingerprinted or photographed when cited</li></ul> <p><u>Coordination between Law Enforcement and Clerk’s Office</u></p> <ul style="list-style-type: none"><li>● Law enforcement and the Clerk’s Office will need to communicate about the setting of court dates.</li><li>● Law enforcement and the Clerk’s Office must coordinate regarding any changes to technology or forms.</li></ul> |
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