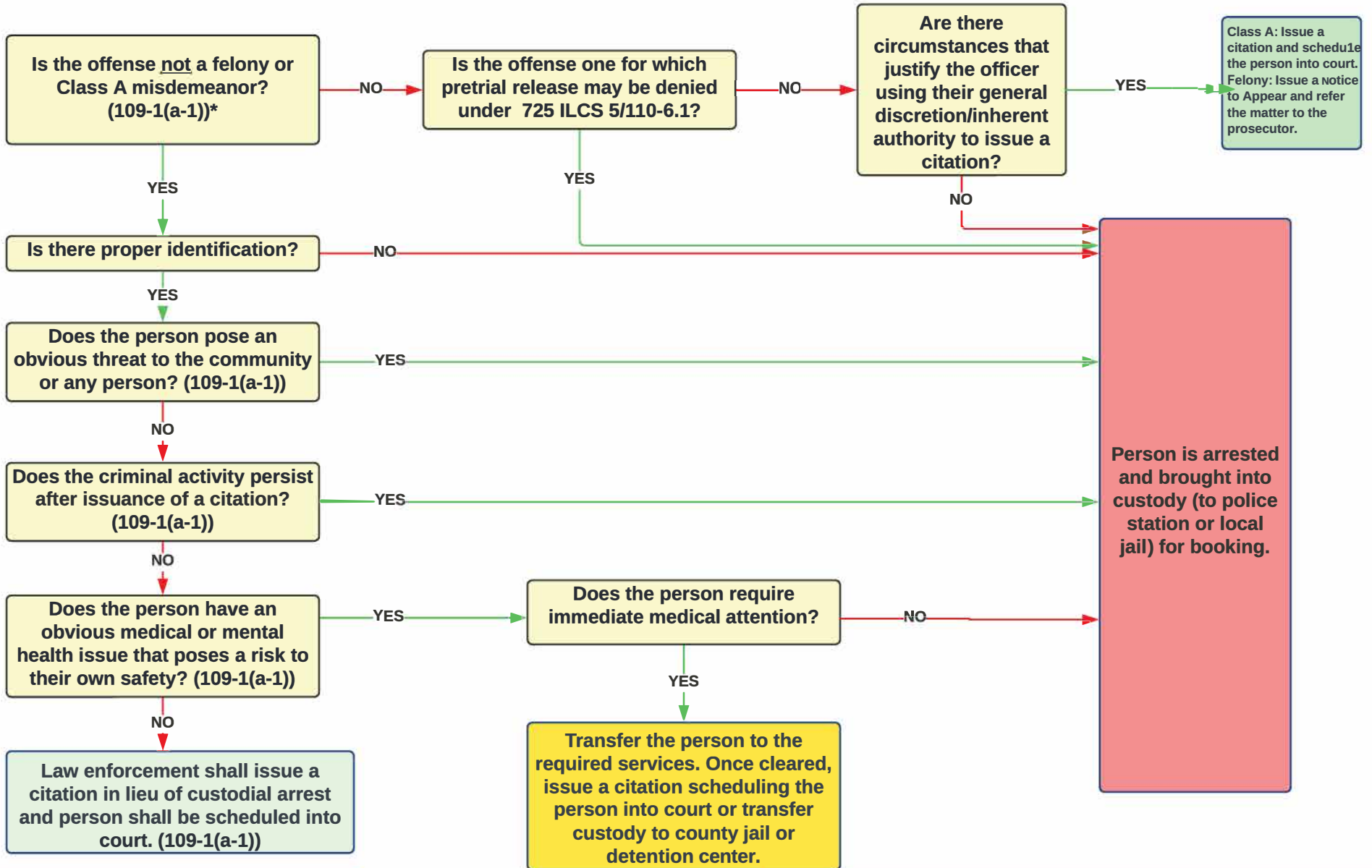


Current as of December 12, 2022 (post-PFA Trailer Bill)

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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.

Release by Citation



*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

Use of Citations

725 ILCS 5 Reference	Description	Considerations
Release by Citation		
109-1(a-1)	<p>“Law enforcement shall issue a citation in lieu of custodial arrest, upon proper identification, for those accused of any offense that is not a felony or Class A misdemeanor unless (i) a law enforcement officer reasonably believes the accused poses a threat to the community or any person, (ii) a custodial arrest is necessary because the criminal activity persists after the issuance of a citation or (iii) the accused has an obvious medical or mental health issue that poses a risk to the accused’s own safety. Nothing in this Section requires arrest in the case of Class A misdemeanor and felony offenses, or otherwise limits existing law enforcement discretion to decline to effect a custodial arrest.”</p>	<p><u>Interpretation Considerations</u></p> <ul style="list-style-type: none"> ● “Citations” is interpreted to include notices to appear. ● Citations should presumptively be used for all Class B misdemeanors and lower offenses. ● Law enforcement retain their discretion to arrest or issue a citation for felonies and Class A misdemeanors. ● The language does not distinguish between traffic or criminal offenses, so Class A misdemeanor traffic offenses are <i>not</i> excluded. <ul style="list-style-type: none"> ○ The definition of “misdemeanor” (102-14.5: “Misdemeanor has the meaning provided in Section 2-11 of the Criminal Code of 2012.” (That section defines it as: “Misdemeanor” means any offense for which a sentence to a term of imprisonment in other than a penitentiary for less than one year may be imposed.”)) <p><u>Operational Considerations</u></p> <p><u>For Law Enforcement Organizations</u></p> <ul style="list-style-type: none"> ● Law enforcement organizations will need to establish a standard for how to determine “proper identification” and address any problems with tracking SID.

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		<ul style="list-style-type: none">● Law enforcement will need to determine whether any of the three exceptions listed are present in a given circumstance. If the exceptions are not present, they <i>must</i> issue a citation for all Class B misdemeanor and lower offenses.● Each law enforcement organization should provide operational guidance to their officers to ensure consistent application of this statute.<ul style="list-style-type: none">○ E.g., provide guidance on what rises to the level of a “threat”○ E.g., provide guidance on what qualifies as “persistent criminal activity” after the issue of a citation.○ E.g., provide guidance on what qualifies as “obvious medical or mental health issues that pose a risk to their own safety”● 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)<ul style="list-style-type: none">○ Note that Supreme Court Rule 552 gives the Conference of Chief Judge’s the authority to govern the uniform citation forms. They are REQUIRED to be used by law enforcement when issuing citations for any non-felony offense. Other than in Cook County, law enforcement agencies are not authorized to generate their own citation forms for non-felony offenses for local use.● 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">○ Consider creating a resource card or brochure that lists local behavioral health resources that officers can provide people.○ Coordination with emergency response operators (911 or 988) and implementation of the Community Emergency Services and Supports Act (CESSA) may be useful.● Law enforcement organizations should train their officers in a consistent and comprehensive way on the statute, the new operational guidance, and any new forms or procedures.
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		<p><u>For Courts and Clerk's Offices</u></p> <ul style="list-style-type: none">○ If the county has a court reminder system, consider developing a process to enroll people who are given a citation into that system.○ 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 <p><u>Coordination between Law Enforcement and Clerk's Office</u></p> <ul style="list-style-type: none">● Law enforcement and the Clerk's Office will need to communicate about the setting of court dates.● Law enforcement and the Clerk's Office must coordinate regarding any changes to technology or forms (note the comment about Rule 552 above).
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