



SAFE-T Act Trailer Bill 3 Issues and Concerns

September 14, 2022

Class B and C Misdemeanors: Clarify language regarding the ability to arrest, detain, and remove subjects committing a Class B and C misdemeanors or those who continue the criminal conduct after being issued a citation or NTA.

- Examples- Trespass, Residential Picketing, Assault, Disorderly Conduct, etc.
 - Clarify to reduce liability and give consistency to enforcement.
 - Allows officers to handle everyday calls for service around the state to public's expectations.
 - 20 ILCS 2630/5 Criminal Identification Act. Currently must report Class B arrests with fingerprints.
- **Traffic Offenses:** Clarify ability to make custodial arrests for Class A Traffic Violations:
 - DUI, Fleeing and Eluding, Drag Racing, Reckless Driving, Leaving the Scene of an Accident, Speeding 35 mph over the posted limit, DWLS and DWLR, etc.

Pretrial Release and Bail Reform- concerns over public safety and the ability to detain violent offenders.

- **Pretrial Release:** All defendants shall be presumed eligible for pretrial release, and the State shall bear the burden of proving by **clear and convincing** evidence that defendant has committed the offense AND poses a real and present threat to the safety of a specific, identifiable person or persons. 725 ILCS 5/110-6.1 (e)
 - Change language regarding the "presumption that all persons are eligible for pretrial release" unless you can show they are a threat to a "specific" person. Need language about "threat to the public or society as a whole".
 - Detention only shall be imposed when it is determined that the defendant poses a specific, real, and present threat to a person or has a high likelihood of willful flight 725 ILCS 5/110-2
 - Willful flight means planning or attempting to evade prosecution by concealing oneself. Simple past non-appearance is not evidence. 725 ILCS 5/110-1
 - Changes should be made to the list of detainable offenses, such as arson, burglary, 2nd Murder, Aggravated Battery, etc.
- **Revocation of pretrial release:** Only revoked if defendant is charged with a detainable offense.
- **Logistics:**
 - At the hearing at which conditions of pretrial release are determined, the person charged shall be present in person rather than by video, etc. This means court for Saturday and Sunday 725 ILCS 5/109-1
 - Timing of detention hearing shall be held within 48 hours of first appearance for class 3 and above and 24 hours for class 4 or class a 725 ILCS 5/110-6/1© (2)

- **Failure to Appear for Court:**
 - Failure to appear-no longer issue a warrant for FTA, but rather issue a “summons” of new hearing at least 48 hours in advance of scheduled hearing 110-3
 - Who serves summons- Sheriff Offices
- **Warrants:**
 - Individuals with warrants shall be taken to the county where the warrant originated by that county.
 - Clarify whose responsibility to provide transportation. Suggest should be issuing County/Jurisdiction.
- **21 Day Rule to Appear in Court for:**
 - NTAs and Citations on detainable offenses that are released on NTA and not taken into custody—need to change. What is the urgency if not detained?

Other Issues and Concerns-

- **Less Lethal:**
 - Allow the ability to target the back with less lethal options. **720 ILCS 5/7-5.5**
 - Remove Taser from the definition of a firearm 730 ILCS 5/31A-0.1
- **Electronic Monitoring:**
 - Definition of escape- offender must be in violation of electronic monitoring for at least 48 hours to be considered escaped. 50 ILCS 705/8.4
 - Defendants will be given custodial credit for each day under home confinement 730 ILCS 5/5-4.5
 - Defendant release on electronic monitoring shall be provided with open movement spread out over no fewer than 2 days/week (public safety concerns for the public, victims, witnesses- not against movement for work, counseling, church, education, etc. with permission of supervising personnel).
- **Training Hours:** We support training and appreciate the additional funding for ILETSB and our MTUs.
 - Training Hours are difficult to meet for agencies who must depend upon MTUs due to limited classes and seating. (Effective 7/1/22) 50 ILCS 705/10.6
 - Recordkeeping- tracking of training and compliance should be the responsibility of the agency, not individual officers (50 ILCS 705/8.4 Law Enforcement compliance and verification).
 - We would like to see mandatory 40 hours every 3 years with **ILETSB setting the priorities annually.**
This would allow for coordination with MTUs on an annual basis.
 - Currently the SAFE-T Act requires 30 hours of minimum in-service training every three years in multiple subjects with at least 12 hours of scenario-based training.
- **Decertification:**
 - We would like to see Confidential Complaints vs. Anonymous Complaints.
 - We want to ensure the professionalism of our officers.
 - Anonymous complaints are difficult to investigate due to the lack of ability to follow-up with the complainant.

Body Camera Act of 2015 updates- Update language to address and clarify various issues and concerns since BWCs are mandated by the SAFE-T Act:

- **Cost is an issue-** Change camera grant language to cover the cost of software, management solution, and storage. Currently only covers hardware which is often free.

- Cost is reoccurring placing burden on budgets- open camera grant to agencies already equipped or who must add cameras to cover officers not already equipped or need to renew contract (see below).
- Some departments have implemented a Shared BWC Program to contain costs.
- **Who must wear-** Change language to clarify what LEOs are required to wear BWCs.
 - **Exclude:** administrative officers, academy personnel, internal affairs, planning and research and detectives.
 - Officers in uniform who may respond to a call for service while off-duty, enroute to and from work, court, etc.
 - **Exigent Circumstances:**
 - Officer's whose camera may be malfunctioning and is waiting repair. Departments have limited supply of back-up cameras.
 - Consideration for Shared Programs in emergency incidents that require an unordinary number of officers to work at the same time (natural disaster, etc.) and there are not enough BWCs.
 - Many departments implemented BWC programs prior to this law and did not equip officers in administrative roles. This would cover those agencies by not increasing costs.
- **Implementation Dates-** provide exemption for those agencies who have ordered BWCs but have not received for reasons beyond their control (supply and demand, chip shortage, etc.)
- **Notification Clause-** Sunset upon last implementation date. It should be implied that uniformed officers are recording interactions.
- **Labeling of videos-** Further clarify the language allowing officers to initially label, tag, and categorize videos in management/storage solution.
- **Flagging of videos-** Allow Officers to flag videos in addition to supervisors. Officers do this in the field and part of duties in effort to organize and properly maintain videos.
- **Use of recording/video in complaint investigations-** clean-up language to be consistent with other statutory language (UPODA).
- **FOIA Exemptions-** for videos with juveniles; confidential informants or witnesses; any person who has a REP; any image that may reasonably endanger the life of another person; ongoing/active homicide and sexual assault investigations.
- **Annual Reporting-** streamline and remove information that must be reported that law enforcement agencies do not maintain. This reduces cost of having to manually track cases through the system on a daily or weekly basis which is a hidden cost and burden.
- **Eavesdropping Exemption-** insert permanent exemption for BWCs.