



Illinois Association of CHIEFS OF POLICE

FACT SHEET: SAFE-T Act amended by 3 Trailer Bills

Version 8

Updated December 7, 2022

Explanation of P.A. 101-0652, *PLUS* three trailer bills (HB3443 SA5, HB3512 SA1, and [HB1095 SA1 and SA2](#))

UPDATED GUIDE TO TOPICS and IMPLEMENTATION

Late in the afternoon of Thursday, December 1, 2022, Governor Pritzker signed what we have been calling [Trailer Bill 3](#). It is HB 1095, SA1 and SA2.

This document gets you up to date about the SAFE-T Act and new effective dates as a result of the two trailer bills.

Background Facts

February 22, 2021 -- "SAFE-T Act" (PA 101-0652) signed by Governor Pritzker. It was HB 3653, passed by the House and Senate on January 13, 2021, the last day of the lame duck session. SAFE-T is an acronym for the Illinois Safety, Accountability, Fairness and Equity-Today Act.

May 31, 2021 – Trailer Bill 1 passes, modifying the SAFE-T Act. Governor signs it June 25, 2021. This is HB 3443, SA5.

January 5, 2022 – Trailer Bill 2 passes, modifying the SAFE-Act again. This is HB 3512, SA1.

January 7, 2022 – Governor Pritzker signs Trailer Bill 2, which means that some provisions that were indeed effective January 1, 2022, will be moved back to July 1, 2022.

December 1, 2022 – The Illinois Senate and House passed Trailer Bill 3 (HB1095 SA1 and SA2).

December 6, 2022 – Governor Pritzker signed a revised SAFE-T Act after the General Assembly passed Trailer Bill 3

This Fact Sheet, Version 8, can serve as your guide to both the SAFE-T Act and to updates from the

trailer bills. It combines the latest information from both. **Substantial changes enacted in the first and second trailer bills are in red type.** Changes made with the third trailer bill are in green. The rest of this document are notes from the original SAFE-T Act, in black type.

Disclaimer: *This document is not intended to provide legal advice. Its purpose is to provide a basic overview for ILACP members of what is in the SAFE-T Act and trailer bills. It does not include all topics in the SAFE-T Act but focuses on those that are most important to municipal law enforcement agencies at this time. Consult your municipal attorney, government, or university attorney for legal guidance.*

Effective July 1, 2021

You must maintain police misconduct records permanently. All records related to complaints, investigations, and adjudications.

Death in Custody Act. Requires agencies to report to ICJIA when a person dies while in custody or as the result of a peace officer's use of force.

Community-Law Enforcement and Other First Responder Partnership for Deflection and Substance Use Disorder Treatment Act. Prioritizes funding for deflection programs in certain communities and expands definition of deflection programs and adds to list of subjects for which LE agencies must be trained.

New required areas of training are:

- Neuroscience of Addiction for Law Enforcement;
- Medication-Assisted Treatment;
- Criminogenic Risk-Need for Health and Safety;
- Why Drug Treatment Works?
- Eliminating Stigma for People with Substance-Use Disorders and Mental Health;
- Avoiding Racial Bias in Deflection Program;
- Promotion Racial and Gender Equity in Deflection;
- Working With Community Partnerships; and
- Deflection in Rural Communities.

Attorney General Act. Allows AG to conduct investigations and pursue civil action against officers.

Additional monthly reporting on mental health crises and use of force to ISP:

- A report on any incident where a law enforcement officer was dispatched to deal with a person experiencing a mental health crisis or incident, including the number of incidents, the level of law enforcement response and the outcome of each incident. **“For purposes of this Section, a ‘mental health crisis’ is when a person’s behavior puts them at risk of hurting themselves or others or prevents them from being able to care for themselves.”**

- A report on use of force, including any actions that resulted in death or serious bodily injury of a person, or the discharge of a firearm at or in the direction of a person.

Mandatory reporting to the FBI National Use of Force database. [Here is a link.](#) Monthly reporting is

required, but many agencies don't know they have to submit a report even if there are no incidents to report that month. The Illinois Chiefs have been on record for two years as supporting participation in this database.

Military equipment. Prohibits sheriff's offices and police departments from requesting or acquiring certain surplus military equipment.

Restoration of driving privileges. Requires Secretary of State to rescind suspension of a person's driver's license if the suspension was due to failure to pay any traffic fine or penalty, and for similar reasons.

Use of force restrictions. Lengthy section that amends when an officer can use force or deadly force. The trailer bill eliminated the language about letting someone flee if the officer believes the person cannot be arrested at a later date. It also eliminated the undefined word that would have allowed pursuit and arrest if an officer believes the offender had "just" committed a forcible felony. Defines such terms as deadly force, imminent threat, and totality of the circumstances.

Prohibits certain kinds of force: Addresses chokeholds and, in the trailer bill, improves the definition of chokeholds compared to what had been in the original law. Clarifies definition to allow for headlocks and to allow contact with the neck that is not intended to reduce the intake of air. Also, revises the reference to taser to allow for targeting the back, while prohibiting the discharge of electrical weapons that targets "the head, chest, neck, groin, or anterior pelvis."

Chemical agents and irritants: Clarifies the difference between using pepper spray and tear gas for crowd control vs. on an individual, and requires an order to be issued and time allowed for compliance before actually using the chemical agents and irritants. Allows an exception in pepper spray use if waiting would put the officer in risk of harm.

Duty to Intervene and Duty to Render Aid. Requires officers to render medical aid and mandates an affirmative duty to intervene to stop or prevent another peace officer in his or her presence from using any unauthorized use of force or force that exceeds the degree of force permitted under the law. The duty to intervene section adds that not only does a police officer have a duty to intervene, but so does "any other person acting under the color of law who has an opportunity to intervene." The duty to render aid section eliminates a provision that would have required an officer to "carry" an injured person to a doctor or medical facility.

Law enforcement misconduct: Trailer bill removes the provision that said an officer commits misconduct if the officer fails to comply with provisions of the body-worn camera statute or department policy requiring the use of BWC. Now says an officer commits misconduct if he or she has "intent to prevent the apprehension or obstruct the prosecution or defense of any person," ... for knowingly and intentionally misrepresenting to failing to provide material facts, or for knowingly and intentionally failing to comply with four subsections of the Law Enforcement Officer-Worn Body Camera Act.

No-knock warrants. Allows for no-knock warrants (yes, you can still request one from a judge in some circumstances) IF the interaction is recorded or if body-worn cameras are in use.

October 1, 2021

Review of qualified immunity. Technically, the Constitutional Rights and Remedies Act. Creates a task force to review and reform qualified immunity. ILACP has a seat on this task force. Members of task

force must be appointed within 30 days after July 1, 2021, and the task force's report to the General Assembly and the governor is due by October 31, 2021. An initial general report was presented on time to meet the statutory deadline, with the task force initially planning another report with recommendations before the date of its sunset, which was Dec. 31, 2021. The original due date for the report was May 31. However, the Task Force voted in December 2021, while considering 17 recommendations, to postpone its final report until sometime in 2022. It planned to seek the permission of the General Assembly to continue its work beyond 12-31-2021.

Effective January 1, 2022

Three phone calls within three hours. Deadline for the three-phone-call requirement moved from July 1, 2021, to January 1, 2022. Negotiations continued on changing this language. As a result of Trailer Bill 2, the law (the SAFE-T Act) mandates that a detainee will have the right to three phone calls within three hours of being in the first place of detention, to communicate with an attorney and family members, free of charge, and allows the detainee to access their own cellular phone for contact numbers. Trailer Bill 2 also added some good language that says "exigent circumstances" might prevent a person from getting the three phone calls within three hours, and when that happens, it needs to be documented.

Effective July 1, 2022

Note: Everything now effective July 1, 2022, originally was set to be effective earlier, such as January 1, 2022. Trailer Bill 2 pushes back the effective dates on the following:

Mental health screenings for officers. Requires the Illinois Law Enforcement Training and Standards Board (ILETSB) to establish statewide minimum standards regarding regular mental health screenings for probationary and permanent police officers.

New certification and decertification provisions. Lengthy section.

- Creates LE Certification Review Panel.
- Automatic and Discretionary decertification.
- Discretionary decertification can be for failing to intervene when an officer is using excessive force (regardless of rank), if the officer makes a false statement in a report or misleads a public servant in the public servant's performance of an official function, for perjury, evidence tampering, or for other unspecified conduct that is unprofessional, unethical, or a deleterious conduct or practice.
- Requires officers to verify compliance with all requirements for certification every three years.
- Allows ILETSB to accept complaints and investigate allegations from persons who remain confidential, at least initially.
- Alters what "inactive status" is -- occurs upon termination, resignation, retirement or separation from the governmental agency for any reason.
- Creates an officer professional misconduct database at ILETSB. Information in the database cannot be released and is not subject to subpoena or discovery or admissible in evidence in any private civil action.
- Requires sheriffs to be sworn officers; does not apply to any current sheriffs who do not meet this requirement.

New requirements in curriculum for probationary officers. Includes CIT, role playing, use of force, and high-risk traffic stops.

30 hours of training every 3 years. Minimum in-service training. Topics include, as they did previously:

- Constitutional and proper use of law enforcement authority
- Procedural justice
- Civil rights
- Human rights
- Reporting child abuse and neglect
- Cultural competency, including implicit bias and racial and ethnic sensitivity.
- **Scenario-based role playing.** At least 12 hours of hands-on, scenario-based role playing:
 - At least six hours on use of force, including de-escalation techniques
 - Specific training on the law concerning “stops, searches, and the use of force” re 4th Amendment
 - Specific training on “officer safety techniques, including cover, concealment, and time.”
 - At least six hours on “high-risk traffic stops.”

CIT curriculum. Requires ILETSB to create a specialty certification course of 40 hours. Does not require 40 hours for all CIT training.

Effective 2022-2025 – Mandatory Body Camera

Body cameras become mandatory for all LE agencies as follows:

- Municipalities and counties with a population of 500,000 or more, by January 1, 2022;
- Municipalities and counties with a population of 100,000 or more but under 500,00, by January 1, 2023;
- Municipalities and counties with a population of 50,000 or more but under 100,000, by January 1, 2024; and
- Municipalities and counties with a population under 50,000 by January 1, 2025.
- Provides greater leeway for those law enforcement agencies required to have cameras by Jan. 1, 2023. If they ordered them by Oct. 1, 2022, and still don't have them they will still be in compliance until July 1, 2023. (SA1, Page 28)
- For all “other remaining law enforcement agencies” and state agencies with law enforcement officers, by January 1, 2025.

Effective January 1, 2023

(Some language may be changed again before 1/1/23)

Transition to New System: The Pretrial Fairness Act was amended to lay out how the transition will be handled come Jan. 1, 2023.

- Those charged on or after January 1 will use the new system, while those charged prior to that will stay on the current one. However, the state or the defendant have the option of moving the individual case to the new system, on a motion scheduled that prioritizes low level non-violent offenders.
- Bail process for those currently held as of 1/1/23- defines a tiered process for evaluating the cases of those in custody prior to 1/1/23.
 - More serious offenses must be determined by 5/1/23 and 3/1/23 and all other others within 7 days.
- Eliminates ability to charge for violation of bond (720 ILCS 5/32-10. (SA1, Page 128)

Obstructing or resisting arrest. Trailer bill now differentiates what is required to arrest someone for obstructing a police officer vs. resisting arrest. This had been convoluted in the original SAFE-T Act. For resisting, there must be an underlying offense for which the person was initially subject to arrest. For obstructing, there does not need to be an underlying offense.

Anonymous complaints. Allows any person to file with ILETSB an anonymous complaint against a police officer.

Bail reform. “Bail” gives way to “pretrial release.” Replaces all references to “bail,” “bail bond” or “conditions of bail” to be construed as “pretrial release” or “conditions of pretrial release.” Lengthy section.

- Eliminates monetary bail.
- All persons charged with a criminal offense shall be eligible for pretrial release before conviction. Pretrial release may only be denied when a defendant is charged with a specific offense listed in Section 110-6.1 of the Criminal Code of 2012, or who has a high likelihood of willful flight, and after the court has held a hearing. Certain exceptions apply.
- Requires consideration of safety of the crime victim.

Body Worn Cameras:

- The following BWC statement was read into the docket on December 1, 2022, creating legislative intent:
 - “The intent of the BWC Act is to capture law enforcement encounters with members of the public. The act supports issuing body cameras to police department personnel engaged in law enforcement encounters or activities as defined in the act and not intended to apply to administrative personnel and others not engaging in law enforcement encounters or activities.”
- Removes restriction on Officers labeling their own BWC videos. (SA1, Page 34)
- Clarifies the labeling-tagging of video issues. (SA1, Page 31)

- Simplifies the annual reporting requirements to ILETSB. Removes the requirement for agency to track whether footage is used in prosecution. (SA1, Page 39)
- Allows camera grant funds to be utilized for storage. (SA1, Page 40)

Detainable Offenses (Pretrial Fairness Act): Expanded the list of offenses and forcible felonies. (SA1, Page 224)

- Adds various offenses to the detention net with underlying theme of detaining people who pose a danger and release people who do not.
- It adds non-probationable felonies (with a higher burden for drug offenses involving intent to distribute), forcible felonies (with clarifying language on the definition), hate crimes, attempts of crimes that are otherwise detainable, a few serious crimes that don't fall under those categories such as aggravate DUI causing great bodily harm and felony animal torture.
- Detention can also be based on any other felony that involves the threat of or infliction of great bodily harm or permanent disability or disfigurement. (SA1, Page 220)

Hearings: (SA1, Page 238)

- Non-detainable offense hearings must be within 7 days, willful flight hearings within 60 days, and threat to safety hearings within 90 days.
- Those detained but considered flight risks would get hearings within 60 days.
- Those considered to be potential threats to safety get hearings within 90 days.

Dangerousness Standard: (SA1, Page 214)

- Makes consistent throughout the act the dangerousness standard (what a prosecutor must show to detain an individual on grounds the individual is a threat).
- Includes "threat to the community," based on specific, explainable facts of the case. (SA1, Page 147)

Willful Flight: Improves the definition of "willful flight" (SA1, Page 163)

- Fixes language that some argued prohibited judges from considering past non-appearances.
- Under the new definition, "Willful flight" means intentionally avoiding prosecution.
- Improves language regarding Escape and Failure to Appear for Court.

Public Defender Support:

- Creates a grant program for increasing public defenders to handle the expected increase in caseloads. (SA1, Page 41-44)

Prompt Remote Hearings:

- Requires a defendant to have the detention hearing within 48 hours. (SA1, Page 190)

- Fixes inconsistent language regarding the use of remote hearings. Allows use of remote court hearings if the defendant waives the right to be in person, if the court determines remote is necessary to protect the health or safety of any person involved, or the court determines remote is necessary due to logistical challenges. (SA1, Page 135)

Evidence at Hearings:

- Clarifies that only police reports, recordings, and statements that are **in the possession** of the prosecutor at the hearing need to be made available to the defendant prior to the hearing.

Warrants:

- Fixes a drafting error prohibiting the use of bench warrants.
- Clarifies what happens if someone is arrested in one county and has an outstanding warrant in another county and gives sheriffs 5 calendar days instead of 72 hours to transport an individual. (SA1, Page 153)
- Clarifies whom out-of-state warrants are governed by. (SA1, Page 153)
- Addresses the Bail Process for those currently held as of January 1st.
- Existing warrants-Those issued prior to 1/1/23 remain in effect until they are resolved. The cash bond component also stays in effect. Therefore, two systems will be operating until cash bond warrants are resolved.

Judicial Arrest Warrants:

- Clarifies that a judge can issue arrest warrants or a summons when someone misses their court date. (SA1, Page 142)
- Language added to rely more on summons rather than warrants when it comes to missing a court date. Summons can be provided in person, certified, or via regular mail. (SA1, Page 140)

Electronic Monitoring, Escape, Home Confinement: (SA1, Page 307)

- Clarifies court authority in setting conditions and defines a day a reasonable time period within a calendar day.
 - 2 days movement-as approved by the court in the order placing the person on confinement. Days means a reasonable time period during a calendar day.
- Removes the provisions that made escape chargeable only after 48 hours and replaces it with language that requires physical escape and intent.
- Failure to comply with EM-includes a person who knowingly and intentionally violates a condition of EM or removes the EM device.
- Credit for Detention-individual gets day for day credit for home confinement but may get credit for GPS or EM.

Speedy Trial:

- Excludes from the speedy trial clock any continuance granted by the court for good cause reasons such as a delay by a lab in processing DNA. (SA1, Page 235)

Appeals:

- Allows for the state and defendant to appeal all court decisions related to pretrial release. (SA1, Page 165)
- Clarifies that the public defender handling the detention hearing also handles the appeal. (SA1, Page 191)

Citations and Arrestable Offenses: (SA1, Page 147)

- Clarified that an officer can make a non-custodial arrest of an individual for offenses that are not felonies or Class A, with certain conditions and requirements.
- Requires an officer to issue a citation in lieu of custodial arrest, upon proper identification, **unless**:
 - The officer reasonably believes the person poses a threat to the community or any person
 - The criminal activity persists after the issuance of a citation
 - The accused has an obvious mental or medical health issue that poses a risk to the accused own safety
 - Clarified that Class A traffic offenses are arrestable by modifying the language to include "offenses that are not felonies or Class A."
- Removes the requirement that the summons be set within 21-days.

Clarifying Language and Drafting Error Fixes:

- Clarifies that the least restrictive conditions of pretrial release be set and specifies that least restrictive in an individualized assessment. (SA1, Page 175)
 - Judicial Finding: clarifies that judges must make a written finding summarizing why less restrictive conditions than detention won't work. (SA1, Page 186)
- Specifies when pretrial release conditions can be revoked. (SA1, Page 125)
 - Process for revocation to now include nights and weekends and be within 72 hours upon the filing of the revocation and limited to Class A and above.
- Fixes language related to pregnant defendants. (SA1, Page 195)
- Clarifies exigent circumstances for officer body cameras. (SA1, Page 31)