IN THE CIRCUIT COURT OF THE TWENTY-FIRST JUDICIAL CIRCUIT
KANKAKEE COUNTY, ILLINOIS

JAMES R. ROWE, Kankakee County State's Attorney, and MICHAEL DOWNEY, Kankakee County Sheriff,

Plaintiffs,

v.

KWAME RAOUL, Attorney General of Illinois; JB PRITZKER, Governor of Illinois; EMANUEL CHRISTOPHER WELCH, Speaker of the House; and DONALD F. HARMON, President of the Senate,

Defendants.

No. 2022 CH 16

Hon. Thomas W. Cunnington

MEMORANDUM IN SUPPORT OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

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TABLE OF CONTENTS

INTRODUCTION

In January 2021 the legislature passed, and in February 2021 the Governor signed, Public Act No. 101-652, commonly known as the Safety, Accountability, Fairness and Equity-Today ("SAFE-T") Act. The SAFE-T Act enacts a comprehensive set of reforms to the Illinois criminal justice system. Many of its provisions have been in effect since July 2021. Other provisions—specifically those relating to pretrial release—take effect on January 1, 2023.

The SAFE-T Act has been the subject of extensive debate among elected officials and members of the public, but the policy issues in those debates are not the subject of this case. Rather, this case—one of 62 filed by state's attorneys and sheriffs across the state—concerns whether the statute violates the Illinois Constitution. Several of plaintiffs' claims challenge the statute as a whole. They contend the SAFE-T Act does not relate to a single subject, was not read by title on three different days in each legislative house, somehow constitutes an impermissible amendment to the Constitution, and is unconstitutionally vague. Other challenges concern the SAFE-T Act's pretrial release provisions. These claims allege those provisions violate the Constitution's guarantees to criminal defendants and crime victims, or infringe on an inherent judicial power. As shown in detail below, none of these challenges has legal merit, and plaintiffs have not met their heavy burden to show that the SAFE-T Act violates the Illinois Constitution.

First, the Court should reject plaintiffs' challenges to the SAFE-T Act as a whole:

- In Count I, plaintiffs allege the SAFE-T Act amends the Illinois Constitution without following the procedures set out in Article XIV, section 2, for doing so. This claim fails because the statute does not amend the Constitution at all.

- In Count II, plaintiffs allege the SAFE-T Act violates the "single subject rule" in Article IV, section 8(d) of the Illinois Constitution. This claim fails because the challenged provisions in the statute all relate to a single subject—the criminal justice system.

- In Count VI, plaintiffs allege the SAFE-T Act violates the "three readings requirement" in Article IV, section 8(d) of the Illinois Constitution. As plaintiffs concede, however, this claim is foreclosed under controlling Illinois Supreme Court precedent.

- In Count VII, plaintiffs contend some terms in the SAFE-T Act are unconstitutionally vague and therefore the entire statute must be struck down. Those terms are not vague, and in any event, the statute is not impermissibly vague in all applications.

The Court need not reach the merits of plaintiffs' remaining claims, which all attack, on a facial basis, the SAFE-T Act's pretrial release provisions. These claims are not justiciable for two independent reasons: first, plaintiffs lack standing to raise them; and second, they have not sued any defendant charged with enforcing them. If the Court considers the merits of these challenges, it should reject them as a matter of law:

- In Count III, plaintiffs contend the pretrial release provisions violate the "bail" provision in Article I, section 9 of the Illinois Constitution. This claim is contrary to the constitutional text and inconsistent with the pretrial release system existing for decades.

- In Count IV, plaintiffs allege the pretrial release provisions violate the "crime victims' rights amendment" to the Illinois Constitution. Plaintiffs do not have standing to assert these rights, which, in any event, are not undermined by the SAFE-T Act.

- In Count V, plaintiffs contend the pretrial release provisions violate the separation of powers doctrine by unduly infringing on an inherent judicial power. This claim fails because plaintiffs cannot show any such infringement.

Finally, the Court should reject plaintiffs' request in Count VIII for a preliminary injunction, which is not a cause of action. In any event, there is no need for such relief given the parties' agreement to expedite a merits ruling on their cross-motions for summary judgment.

BACKGROUND

The SAFE-T Act enacted a comprehensive package of reforms to the criminal justice system. Many are familiar with its provisions eliminating monetary bail and enacting an alternative framework for pretrial release. But it also addresses law enforcement officers—strengthening certification and training programs, clarifying when force may lawfully be used,

requiring body cameras to be worn under most circumstances, and establishing mental health standards. The SAFE-T Act authorizes the Attorney General to investigate and obtain remedies when law enforcement officers engage in a pattern and practice of violating people's rights. It addresses the rights of people who have been arrested or detained. And it modifies terms of mandatory supervised release for certain crimes, clarifies where prisoners should be counted as living for purposes of redistricting, and requires deaths in custody to be reported. The vast majority of these provisions have been in effect for almost 18 months—since July 2021.

Plaintiffs are the State's Attorney and Sheriff of Kankakee County. They filed a complaint in September 2022 naming as defendants the Governor and Attorney General. Over the following weeks, similar lawsuits were filed in 61 counties by other state's attorneys and sheriffs. Some of those complaints raised additional claims and named as additional defendants the Speaker of the Illinois House of Representatives and the President of the Illinois Senate. By agreement, plaintiffs filed an amended complaint ("Complaint") in October 2022 naming all defendants and asserting all claims appearing in any of those additional lawsuits. The parties also agreed to file cross-motions for summary judgment to allow a decision on these important issues before the SAFE-T Act's pretrial release provisions take effect on January 1, 2023.

In the meantime, in October 2022, the Illinois Supreme Court granted a motion to transfer to Kankakee County most of the similar lawsuits filed elsewhere. *Rowe v. Raoul*, 2022 IL 129016. (Later-filed lawsuits were transferred here by the local circuit courts pursuant to the parties' agreement.) Because each of the claims raised in those lawsuits is also asserted by plaintiffs in this case, the Court's decision on the parties' cross-motions for summary judgment will dispose of all cases pending before this Court challenging the constitutionality of the SAFE-T Act. An updated chart showing all cases and claims asserted is attached as Exhibit A.

LEGAL STANDARD

A defendant may move for summary judgment "at any time." 735 ILCS 5/2-1005(b). Courts encourage summary judgment when it will "aid the expeditious disposition of a lawsuit." *Monson v. City of Danville*, 2018 IL 122486, ¶ 12. Here, plaintiffs' challenges to the SAFE-T Act's constitutionality raise questions of statutory construction "appropriate for summary judgment." *Oswald v. Hamer*, 2018 IL 122203, ¶ 9. A court must grant summary judgment when the record shows "the moving party is entitled to a judgment as a matter of law." 735 ILCS 5/2-1005(c). "When parties file cross-motions for summary judgment," as they have done here, "they agree that only a question of law is involved and invite the court to decide the issues based on the record." *Pielet v. Pielet*, 2012 IL 112064, ¶ 28.

"Statutes carry a strong presumption of constitutionality, and [courts] will construe a statute to preserve its constitutionality if reasonably possible." *Walker v. Chasteen*, 2021 IL 126086, ¶ 30. Plaintiffs, "as the part[ies] challenging the validity of the [SAFE-T Act], bear[ ] the burden of clearly establishing its unconstitutionality." *People v. Cornelius*, 213 Ill. 2d 178, 191 (2004). Further, because plaintiffs challenge the SAFE-T Act's constitutionality on its face, they "'must establish that the statute is unconstitutional under any possible set of facts.'" *People v. House*, 2021 IL 125124, ¶ 27. "A facial challenge to the constitutionality of a statute is the most difficult challenge to mount," *People v. Davis*, 2014 IL 115595, ¶ 25, and declaring a statute facially unconstitutional is "strong medicine" that courts employ "sparingly and only as a last resort." *Pooh-Bah Enters., Inc. v. Cty. of Cook*, 232 Ill. 2d 463, 473 (2009) (cleaned up).

ARGUMENT

Plaintiffs raise a grab-bag of challenges to the SAFE-T Act. Defendants are entitled to summary judgment on all of these claims because each one fails as a matter of law.

I. Plaintiffs Cannot Prevail on Their Challenges to the Entire SAFE-T Act.

A. Plaintiffs' Constitutional Amendment Claim Fails Because the SAFE-T Act Does Not Purport to Amend the Constitution.

Plaintiffs allege in Count I that the SAFE-T Act violates Article XIV, section 2 of the Illinois Constitution, which provides a process by which the legislature may initiate proposed amendments to the Constitution. *See generally Sachen v. Ill. State Bd. of Elections*, 2022 IL App (4th) 220470, ¶¶ 3–4. Plaintiffs allege the SAFE-T Act fails to follow that process. Complaint ¶ 48. But the statute did not amend (or purport to amend) the Constitution, so it was not required to follow that process. Because Plaintiffs' theory is premised on a basic misunderstanding of the SAFE-T Act, defendants are entitled to summary judgment on Count I.

B. Plaintiffs' Single Subject Claim Fails Because Each of the SAFE-T Act's Provisions Has a Connection to the Criminal Justice System.

Plaintiffs allege in Count II that the SAFE-T Act violates the "single subject rule" in Article IV, section 8(d) of the Illinois Constitution. This challenge also fails as a matter of law because each of the statute's provisions relates to the criminal justice system.

The purpose of the "single subject rule" is "to prevent the combination of unrelated subjects in one bill to obtain support for the package as a whole, when the separate parts could not succeed on their individual merits." *Kane Cty. v. Carlson*, 116 Ill. 2d 186, 214 (1987). The rule "does not impose an onerous restriction on the legislature's actions" but, to the contrary, "leaves the legislature with wide latitude in determining the content of bills." *Johnson v. Edgar*, 176 Ill. 2d 499, 515 (1997). "[T]he legislature must indeed go very far to cross the line to a violation of the single subject rule." *Id.* at 515–16. Thus, "courts have often upheld legislation involving comprehensive subjects." *Cutinello v. Whitley*, 161 Ill. 2d 409, 424 (1994).

"A determination of whether a public act runs afoul of the single subject rule necessitates

a two-step analysis." *People v. Boclair*, 202 Ill. 2d 89, 109 (2002). "First, [the court] must determine whether the act, on its face, involves a legitimate single subject." *People v. Sypien*, 198 Ill. 2d 334, 339 (2001). "[T]he term 'subject' is to be liberally construed in favor of upholding the legislation, and the subject may be as comprehensive as the legislature chooses." *People v. Cervantes*, 189 Ill. 2d 80, 84 (1999). "Second, [the court] must discern whether the various provisions within an act all relate to the proper subject at issue." *Sypien*, 198 Ill. 2d at 339. "What is dispositive [at this step] is whether the contents included within the enactment have a natural and logical connection to a single subject." *Arangold Corp. v. Zehnder*, 187 Ill. 2d 341, 352 (1999). The single subject rule does not impose any "additional requirement that the provisions within an enactment be related to each other." *Id.* at 356.

The single subject rule also does not impose any requirements regarding the legislation's breadth. "Neither the length of an act nor the number of provisions in an act is determinative of its compliance with the single subject rule." *Wirtz v. Quinn*, 2011 IL 111903, ¶ 15. "That the enactment happens to amend a number of acts already in effect is also not determinative." *Arangold*, 187 Ill. 2d at 352.

Arangold is instructive. The case concerned a single subject challenge to legislation amending 21 separate laws. 187 Ill. 2d at 347. In upholding the legislation, the Illinois Supreme Court rejected the argument that either the number of provisions in a bill or a bill's length determined a single subject violation. The court concluded instead that "[w]hat is dispositive is whether the contents included within the enactment have a natural and logical connection to a single subject." *Id.* at 352. The court reasoned:

> Our review of the Act's provisions persuades us that the entire Act is directed toward changing the substantive law in order to implement the state's budget for the 1996 fiscal year. The legislature made these changes to ensure that expenditures in a program did not exceed appropriations for that program for the

> fiscal year. Therefore, all matters included [in the Act] have a natural and logical connection to implementation of the state's budget for the 1996 fiscal year.

Id. Thus, the court held the legislation "comports with the single subject rule." *Id.*

Here, at step one of the inquiry, the SAFE-T Act, on its face, plainly involves the legitimate single subject of the criminal justice system. The Illinois Supreme Court has repeatedly recognized this to be a legitimate single subject within the meaning of the constitutional rule. *E.g., Boclair*, 202 Ill. 2d at 110; *Sypien*, 198 Ill. 2d at 339; *People v. Malchow*, 193 Ill. 2d 413, 428 (2000); *People v. Reedy*, 186 Ill. 2d 1, 12 (1999); *see also People v. Sharpe*, 321 Ill. App. 3d 994, 996–97 (3d Dist. 2001); *People v. Jones*, 317 Ill. App. 3d 283, 287 (5th Dist. 2000); *People v. Dixon*, 308 Ill. App. 3d 1008, 1014 (4th Dist. 1999). In view of this precedent, there is no need to "reexamine the issue in this case." *Sypien*, 198 Ill. 2d at 339.

Because the SAFE-T Act involves a legitimate single subject, "the dispositive question becomes whether the individual provisions of the Act have a 'natural and logical' connection to that subject." *People v. Burdunice*, 211 Ill. 2d 264, 267 (2004). It is plaintiffs' "substantial burden" to show these provisions "bear no natural or logical connection to a single subject." *Malchow*, 193 Ill. 2d at 429. They have failed to do so.

Plaintiffs get off to an unpromising start by focusing first on the SAFE-T Act's length and breadth. They complain the SAFE-T Act "is over 750 pages [and] addresses 265 separate statutes." Complaint ¶ 68. But the Illinois Supreme Court holds these factors are irrelevant to a single subject challenge. *E.g., Wirtz*, 2011 IL 111903, ¶ 15; *Arangold*, 187 Ill. 2d at 352. What matters is whether the SAFE-T Act's provisions have a natural and logical connection to a single subject, not the number of pages in the legislation or the number of statutes it amends.

Plaintiffs also contend the SAFE-T Act impermissibly concerns five separate subjects:

> 1) Policing and Criminal Law; 2) Elections; 3) Expanding the Partnership for

> Deflection and Substance Abuse Disorder Treatment Act to include first responders other than police officers; 4) Granting the Attorney General increased powers to pursue certain civil actions, some newly created; and 5) Expanded whistleblower protection.

Complaint ¶ 69. Put another way, plaintiffs concede that some of the SAFE-T Act's provisions—those they categorize as "Policing and Criminal Law"—relate naturally and logically to the legitimate subject of the criminal justice system. They dispute only whether the same can be said for the statute's remaining provisions. But a closer look at these purportedly "separate subjects" shows that each of them does, in fact, concern the criminal justice system. Plaintiffs reach a contrary conclusion only by mischaracterizing them or omitting critical portions.

What plaintiffs characterize as relating solely to "Elections," for instance, is a reference to Article 2 of the SAFE-T Act, which enacts the No Representation Without Population Act, codified at 730 ILCS 205 and effective January 1, 2025. This provision does not concern elections generally, but rather has a specific purpose related naturally and logically to the criminal justice system. It requires prisoners to be counted, for legislative redistricting purposes, as residents of their last known street address prior to incarceration, rather than as residents of the correctional facility where they are incarcerated. Pub. Act. 101-652, § 2-20. Appropriately, it has been codified in Chapter 730 of the Illinois Compiled Statutes, which is titled "Corrections." In view of the Illinois Supreme Court's repeated holding that legislation addressing prisoners and correctional facilities is naturally and logically related to the criminal justice system as a whole, *Boclair*, 202 Ill. 2d at 110; *Malchow*, 193 Ill. 2d at 428–29, plaintiffs cannot establish that the No Representation Without Population Act violates the single subject rule.

The same goes for section 10-116.5 of the SAFE-T Act, which amends the Community-Law Enforcement Partnership for Deflection and Substance Use Disorder Treatment Act, 5 ILCS 820 ("Treatment Act"). The purpose of the Treatment Act is "to develop and implement

collaborative deflection programs in Illinois that offer immediate pathways to substance use treatment and other services as an alternative to traditional case processing and involvement in the criminal justice system." 5 ILCS 820/5. Previously, those deflection programs, which offer services to addicts whom peace officers encounter in performing their duties, could be established only by law enforcement agencies. Pub. Act 101-652, § 10-116.5. The SAFE-T Act changes this by authorizing fire departments and emergency medical services providers to establish such programs too, but only in collaboration with a municipal police department or county sheriff's office. 5 ILCS 820/10, 15(a). In other words, these provisions allow law enforcement agencies to work with additional partners to provide comprehensive treatment options to addicts as an alternative to the criminal justice system. "An act may include all matters germane to its general subject, including the means reasonably necessary or appropriate to the accomplishment of the legislative purpose." *People ex rel. Gutknecht v. City of Chicago*, 414 Ill. 600, 607–08 (1953); *see Cutinello*, 161 Ill. 2d at 424. Here, the legislature expanded a program through which law enforcement agencies attempt to divert potential offenders from the criminal justice system. Plaintiffs cannot show these amendments lack a natural and logical connection to the criminal justice system.

Plaintiffs fare no better with their attack on the SAFE-T Act provisions they say give the "Attorney General increased powers to pursue certain civil actions." They neglect to mention that these "increased power" and "civil actions" concern the Attorney General's authority to investigate and pursue remedies against law enforcement agencies. Section 116.7 of the SAFE-T Act amends the Attorney General Act, 15 ILCS 205, to add a new section 10. This provision forbids state and local governments to "engage in a pattern or practice of conduct by [law enforcement] officers that deprives any person of rights, privileges, or immunities secured or

protected by the Constitution or laws of the United States or by the Constitution or laws of Illinois." 15 ILCS 205/10(b). It authorizes the Attorney General to investigate suspected violations and commence a civil action "to obtain appropriate equitable and declaratory relief to eliminate the pattern or practice." 15 ILCS 205/10(c), (d). Plaintiffs do not dispute the conduct of law enforcement officers is naturally and logically connected to the criminal justice system. And the legislature does not offend the single subject rule when it articulates a purpose—here, eliminating certain unlawful conduct by law enforcement officers—and also "provide[s] the means necessary to accomplish the legislative purpose"—here, endowing the Attorney General with investigative and prosecutorial authority intended to stanch that unlawful conduct. *Cutinello*, 161 Ill. 2d at 424; *see Gutknecht*, 414 Ill. at 607–08.

Plaintiffs' final foray on single subject grounds concerns section 10-135 of the SAFE-T Act, which amends the Public Officer Prohibited Activities Act, 50 ILCS 105, to add a new section 4.1. Plaintiffs insist this provision merely "[e]xpanded whistleblower protection," but once again they omit crucial portions of the legislation. Section 4.1 creates a criminal offense and penalties for retaliation against a local government employee or contractor who reports, cooperates with an investigation into, or testifies in a proceeding arising out of "improper governmental action," including law enforcement misconduct. 50 ILCS 105/4.1(a), (g), (i); *see People v. Jones*, 318 Ill. App. 3d 1189, 1192 (4th Dist. 2001) (provision expanding the scope of a criminal offense has a natural and logical connection to the criminal justice system). It is of no moment that section 4.1 also addresses other matters relating to the underlying criminal conduct. A court confronted with a single subject challenge does not parse legislation at an atomic level. *Wirtz*, 2011 IL 111903, ¶ 38. Its task, rather, is to determine whether any provision "stands out as being constitutionally unrelated to the single subject." *Id.* Appropriate deference to the

legislature requires a court to limit its review to "'smoking gun' provisions [that] clearly violate the intent and purpose of the single subject rule." *Id.* ¶ 42; *see Cutinello*, 161 Ill. 2d at 423 ("The single-subject requirement is therefore construed liberally and is not intended to handicap the legislature by requiring it to make unnecessarily restrictive laws."). When the legislation's subject is the criminal justice system, a provision creating a criminal offense, like new section 4.1 of the Public Officer Prohibited Activities Act, is not such a "smoking gun."

The weakness of plaintiffs' single subject challenge is confirmed by comparing the SAFE-T Act's provisions to those in other legislation invalidated by the Illinois Supreme Court on such grounds. In *Johnson*, for example, the court confronted a clear case of legislative logrolling; the bill at issue combined an unpopular environmental impact fee on fuel sales, which previously had failed to pass on its own, H.B. 901, 89th G.A., with a popular measure to create a child sex offender registry, 176 Ill. 2d at 504–05. The court held these "discordant provisions" reflected an "egregious example of the legislature ignoring the single subject rule." *Id.* at 516–18. Likewise, in *Reedy*, the Illinois Supreme Court rejected "governmental matters" as the single subject purportedly tying together the challenged legislation's provisions concerning "the burden of proof for a criminal defendant asserting the insanity defense" and "rules for the perfection and satisfaction of hospital liens." 186 Ill. 2d at 11–12. "To say that such a 'connection' satisfies the single subject rule strains credulity," the court reasoned; "the permitted use of such a sweeping and vague category to unite unrelated measures would render the single subject clause of our constitution meaningless." *Id.* at 12.

Here, by contrast, plaintiffs point to no evidence of legislative logrolling, as was evident in the legislation invalidated in *Johnson*. And the single subject at issue in the SAFE-T Act—the criminal justice system—is confirmed as a legitimate one by longstanding precedent, unlike the

"sweeping and vague category" proposed to unite the legislation invalidated in *Reedy*. Despite plaintiffs' protest, the SAFE-T Act satisfies both the letter and spirit of the single subject rule.

It is plaintiffs' "substantial burden" to show the SAFE-T Act's provisions "bear no natural or logical connection to [the] single subject" of the criminal justice system. *Malchow*, 193 Ill. 2d at 429. They have not done so. The statute does not violate the single subject rule.

C. Plaintiffs Concede Their Three Readings Claim Is Foreclosed by Precedent.

Plaintiffs allege in Count VI that the SAFE-T Act failed to comply with the requirement that bills must "be read by title on three different days in each house." Ill. Const. art. IV, § 8(d). This claim is foreclosed by Illinois Supreme Court precedent and the Constitution itself.

The "three readings requirement" in Article IV, section 8(d) of the Illinois Constitution is a procedural requirement intended to ensure legislators have adequate notice of pending legislation. *Geja's Cafe v. Metro. Pier & Exposition Auth.*, 153 Ill. 2d 239, 258–60 (1992). The Constitution further provides: "The Speaker of the House of Representatives and the President of the Senate shall sign each bill that passes both houses to certify that the procedural requirements for passage have been met." Ill. Const. art. IV, § 8(d). This is known as the "enrolled bill doctrine"; it "mean[s] that, upon certification by the Speaker and the Senate President, a bill is conclusively presumed to have met all procedural requirements for passage," including the three readings requirement. *Geja's Cafe*, 153 Ill. 2d at 259.

The Illinois Supreme Court has consistently held that the enrolled bill doctrine forecloses all litigation challenging certified legislation for failure to comply with the three readings requirement. *Friends of Parks v. Chi. Park Dist.*, 203 Ill. 2d 312, 328–29 (2003) ("[W]e will not invalidate legislation on the basis of the three-readings requirement if the legislation has been certified."); *People v. Dunigan*, 165 Ill. 2d 235, 251–54 (1995) ("Because the Act shows, on its

face, that it was certified by the presiding officers of both houses, the enrolled-bill rule precludes this court from considering whether the legislature complied with the three-readings requirement set forth in article IV, section 8."); *Cutinello*, 161 Ill. 2d at 424–25 ("the 1970 Constitutional Convention specifically contemplated the use of the enrolled bill doctrine to prevent the invalidation of legislation on technical or procedural grounds" and "determined that the legislature would police itself with respect to procedure"); *Geja's Cafe*, 153 Ill. 2d at 258–60 (significant separation of powers problems would arise from judicial interference in legislative procedure); *Polich v. Chi. Sch. Fin. Auth.*, 79 Ill. 2d 188, 208–12 (1980) ("clear intent of the framers of the Constitution" was to foreclose litigation raising three readings challenge); *Fuehrmeyer v. City of Chicago*, 57 Ill. 2d 193, 198 (1974) ("Whether or not a bill has been read by title, as the Constitution commands, seems fairly to be characterized as a procedural matter, the determination of which was deliberately left to the presiding officers of the two Houses of the General Assembly."); *see also Doe v. Lyft, Inc.*, 2020 IL App (1st) 191328, ¶ 54 (three readings claim foreclosed); *McGinley v. Madigan*, 366 Ill. App. 3d 974, 991–92 (1st Dist. 2006) (same); *New Heights Recovery & Power, LLC v. Bower*, 347 Ill. App. 3d 89, 100 (1st Dist. 2004) (same).

Here, plaintiffs concede the Speaker of the Illinois House of Representatives and the President of the Illinois Senate signed the SAFE-T Act to certify the procedural requirements for passage had been met. Complaint ¶¶ 162, 164, 166, 191, 193. Plaintiffs also concede these certifications foreclose their three readings claim under existing precedent interpreting the enrolled bill doctrine. *Id.* ¶ 167. Plaintiffs plead this claim merely so they can ask the Illinois Supreme Court to "revisit" the enrolled bill doctrine and overrule this precedent. *Id.* ¶ 175. That will prove a hopeless quest. The enrolled bill doctrine is a constitutional command forbidding the judiciary to police legislative procedure, and the Illinois Supreme Court has no more authority to

"overrule" this provision of the Illinois Constitution than it does any other. Regardless, in this Court at least, everyone agrees plaintiffs' three readings claim must fail.

D. The SAFE-T Act Is Not Unconstitutionally Vague on Its Face.

Defendants also are entitled to summary judgment on plaintiffs' claim in Count VII that the SAFE-T Act is unconstitutionally vague. "A well-established element of the guarantees of due process" under both the U.S. and Illinois constitutions "is the requirement that the proscriptions of a criminal statute be clearly defined." *City of Chicago v. Morales*, 177 Ill. 2d 440, 448 (1997), *aff'd*, 527 U.S. 41 (1999). Because plaintiffs are bringing a pre-enforcement challenge to the SAFE-T Act, their vagueness claim is "facial" rather than "as-applied." *See Planned Parenthood of Ind. & Ky., Inc. v. Marion Cty. Prosecutor*, 7 F.4th 594, 603 (7th Cir. 2021). "Outside of the First Amendment context, such facial challenges are disfavored." *Id.* Where, as here, the alleged vagueness in the statute does not burden free speech or any other fundamental right, plaintiffs can prevail on a facial challenge only by showing that "the enactment is impermissibly vague in all of its applications." *Vill. of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 495 (1982). Plaintiffs cannot meet this stringent burden.

First, plaintiffs have not identified any portion of the statute that is impermissibly vague. They cite just two specific examples of alleged vagueness: the term "in police custody" in 725 ILCS 5/103-3.5, Complaint ¶¶ 203–04, and the circumstances authorizing court appearances to be conducted by two-way audiovisual communication, *id.* ¶ 205. For the first example, the concept of being in the "custody" of law enforcement is not unduly vague; on the contrary, it is a critical element of many Illinois statutes, *e.g.*, 705 ILCS 405/3-7; 720 ILCS 5/31-6(c); 725 ILCS 5/103-3.5; 730 ILCS 125/19.5; 735 ILCS 5/12-1401, and it is well-defined by numerous cases interpreting those statutes, *e.g.*, *Robinson v. Vill. of Sauk Vill.*, 2022 IL 127236, ¶ 26; *People v.*

Hileman, 2020 IL App (5th) 170481, ¶ 31.[1] With respect to the second example—the supposed contradiction between the two provisions related to audiovisual communications—there is no contradiction at all. An audiovisual appearance is allowed at a hearing to *set the conditions* of pretrial release, 725 ILCS 5/106D-1(a), but it is not permitted at a hearing to *deny* pretrial release, 725 ILCS 5/109-1(a). Notably, this distinction was not even introduced by the SAFE-T Act; rather, it was established by the preexisting statutes (without any apparent effect on plaintiffs' ability to enforce those laws). *See* Pub. Act 90-140; Pub. Act 95-263. And even if plaintiffs could raise doubt about the correct resolution of an interpretive question with respect to either of these issues, "[s]ome uncertainty at the margins does not condemn a statute." *Trs. of Ind. Univ. v. Curry*, 918 F.3d 537, 540 (7th Cir. 2019); *see also Holder v. Humanitarian Law Project*, 561 U.S. 1, 19 (2010) ("[P]erfect clarity and precise guidance have never been required even of regulations that restrict expressive activity.").

Second, plaintiffs cannot show that the SAFE-T Act "is impermissibly vague in all of its applications." *Hoffman Estates*, 455 U.S. at 495. Consider the term "in police custody": although it may be possible to imagine a rare case presenting genuine uncertainty about whether or when someone was taken into custody, the meaning of the term is perfectly straightforward in almost every case. "[S]peculation about possible vagueness in hypothetical situations not before the Court will not support a facial attack on a statute when it is surely valid 'in the vast majority of its intended applications.'" *Hill v. Colorado*, 530 U.S. 703, 733 (2000).

Third, the provisions of the SAFE-T Act that plaintiffs contend are vague do not impose criminal liability or risk the "arbitrary deprivation of liberty interests." *City of Chicago v.*

[1] Plaintiffs, as law enforcement officials, are responsible for interpreting and applying such statutes as part of their official duties, casting further doubt on the allegation of vagueness. *E.g.*, 725 ILCS 5/103-7 (requiring sheriffs to post notice of rights "where it may be seen and read by persons in custody").

Morales, 527 U.S. 41, 52 (1999). Because their vagueness claim is based on the due process clauses of the U.S. and Illinois constitutions, plaintiffs must establish a threatened injury to their lives, liberty, or property. *See Johnson v. United States*, 576 U.S. 591, 595 (2015); *City of Chicago*, 177 Ill. 2d at 448. They have failed to do so, which dooms their claim.

Similar considerations also demonstrate that plaintiffs lack standing to bring this vagueness challenge. Although plaintiffs contend that certain provisions of the SAFE-T Act are vague, they fail to allege that this vagueness affects any legally cognizable interest that is personal to them. Plaintiffs' claim is also premature to the extent it seeks to "prevent the state judiciary from having even a chance to give the law a construction that will produce adequate clarity." *Trs. of Ind. Univ.*, 918 F.3d at 542.

Finally, even if plaintiffs could establish that select provisions of the SAFE-T Act are impermissibly vague—which they cannot for the reasons described above—that would not serve to invalidate the statute as a whole. Here, the allegedly vague statutory sections do not pervade the SAFE-T Act such that "the entire statute is contaminated by unconstitutional vagueness." *People v. Bossie*, 108 Ill. 2d 236, 242 (1985); *Wilson v. Cty. of Cook*, 2012 IL 112026, ¶ 23 ("In order to succeed in a facial vagueness challenge, as opposed to an as-applied challenge, the vagueness must permeate[ ] the text of such a law.") (internal quotation marks omitted).

Because each of these problems is fatal to plaintiffs' extraordinary pre-enforcement facial vagueness challenge to the SAFE-T Act, defendants are entitled to summary judgment.

II. Plaintiffs Cannot Prevail on Their Challenges to the SAFE-T Act's Pretrial Release Provisions.

Plaintiffs separately challenge the SAFE-T Act's provisions governing pretrial release under a variety of constitutional theories. Defendants are entitled to summary judgment on these

claims because they are not justiciable and, in any event, fail on the merits.[2]

A. Plaintiffs' Challenges Are Not Justiciable.

To start, plaintiffs' facial attacks on the SAFE-T Act's pretrial release provisions are not justiciable for two independent reasons. First, plaintiffs lack standing to challenge those provisions. Second, they have not sued any defendant charged with enforcing them.

1. Plaintiffs Lack Standing to Challenge the SAFE-T Act's Pretrial Release Provisions.

"The doctrine of standing insures that issues are raised only by those parties with a real interest in the outcome of the controversy." *Carr v. Koch*, 2012 IL 113414, ¶ 28. "[T]o have standing to challenge the constitutionality of a statute, a party must have sustained, or be in immediate danger of sustaining, a direct injury as a result of the enforcement of the challenged statute," and that injury must be "distinct and palpable." *Id*. Plaintiffs cannot meet this standard with respect to the SAFE-T Act's pretrial release provisions because those provisions—which govern criminal defendants, not plaintiffs in their official capacities as State's Attorney and Sheriff—do not injure them at all, much less in a "distinct and palpable" manner.

Plaintiffs are not directly affected by the SAFE-T Act's pretrial release provisions. As the U.S. Supreme Court has explained, in a suit "challenging the legality of government action," the usual plaintiff is one who is "an *object* of"—that is, regulated by—"the action . . . at issue." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992) (emphasis added). "When, however, . . . a plaintiff's asserted injury arises from the government's allegedly unlawful regulation . . . of *someone else*," standing is frequently lacking. *Id.* at 562 (emphasis in original). The pretrial

[2] Apart from each claim's lack of merit, plaintiffs would not be entitled to any relief with respect to the remaining portions of the SAFE-T Act, given that the statute contains a severability clause, *see* Pub. Act 101-652 § 99-997, reflecting the legislature's view that the pretrial release provisions may be "severed" from the remainder of the SAFE-T Act, *Best v. Taylor Mach. Works*, 179 Ill. 2d 367, 461 (1997).

release provisions fall into the latter category, not the former: They govern when criminal defendants may be detained pending trial. They do not regulate state's attorneys or sheriffs in any sense. Nor do state's attorneys or sheriffs enforce the pretrial release provisions; state courts do. Plaintiffs have no direct stake in whether the provisions are constitutional or not.

Plaintiffs' primary response is that, as law enforcement officers, the pretrial release provisions affect their ability to perform their duties, thus "injuring" them in the constitutional sense. Specifically, plaintiffs say they are injured by the pretrial release provisions in that (a) more defendants will be released rather than detained pending trial, which will "hamstr[i]ng" the State's Attorney's ability to "secure the appearance of defendants for trial," Complaint ¶ 101; and (b) more dangerous defendants will similarly be released rather than detained pending trial, thus requiring the Sheriff to "place his employees in harm's way," *id.* ¶ 145, presumably while securing the appearance of defendants for trial.

These arguments are flawed on multiple levels. For one, they misunderstand the nature of the pretrial release regime established by the SAFE-T Act, which expressly permits judges to deny pretrial release to any person charged with a felony who poses a flight risk, thus obviating the exact injury plaintiffs identify—the need to expend additional resources securing defendants for trial. *See* Pub. Act 101-652, § 10-255 (adding 725 ILCS 5/110-6.1(a)(7)). More fundamentally, however, plaintiffs' enforcement-resources argument goes too far: It would allow law enforcement officers to challenge any Illinois statute that affects the timing and nature of criminal defendants' release into the community, including not only all statutes governing pretrial release, but every statute that reduces the length of sentences or alters the scope of criminal liability. It would allow law enforcement officers to bring suit every time the General Assembly changed criminal law in a manner to which they objected, thus circumventing the rule

that "courts [must] decid[e] actual, specific controversies and not abstract questions," *In re Estate of Wellman*, 174 Ill. 2d 335, 344 (1996), and converting every policy disagreement into a lawsuit. The Court should not expand standing doctrine in that matter.

2. Defendants Do Not Enforce the SAFE-T Act's Pretrial Release Provisions.

Not only are plaintiffs not injured by the SAFE-T Act's pretrial release provisions, but their challenges to these provisions also are not justiciable because no named defendant—neither the Attorney General, the Governor, nor the legislative leaders—has the authority to enforce the pretrial release provisions. For an "actual controversy" to exist capable of judicial resolution, the defendant must be able to afford relief to the plaintiff—generally, in suits challenging state statutes, by ceasing to enforce those statutes or altering the manner of enforcement. *See Cahokia Unit Sch. Dist. No. 187 v. Pritzker*, 2021 IL 126212, ¶¶ 35–41. That is not possible here, because none of the named defendants has any authority to enforce the pretrial release provisions and so could not be directed to *stop* enforcing them. There is therefore no actual controversy between plaintiffs and the named defendants regarding these provisions' constitutionality.

Cahokia is instructive. There, several dozen school districts sued the Governor, arguing a state statute appropriating funds for schools violated the Illinois Constitution. 2021 IL 126212, ¶¶ 4–12. The circuit court dismissed plaintiffs' claims on the merits, but the Illinois Supreme Court held instead that the claims were not justiciable. *Id.* ¶¶ 35–41. It explained that, at bottom, plaintiffs sought "a court order requiring the Governor to provide them with additional funding," but because the Governor "ha[d] no authority to take the action requested," the case "d[id] not involve an actual controversy between the parties" and so was not justiciable. *Id.* ¶ 41; *accord, e.g.*, *Ill. Press Ass'n v. Ryan*, 195 Ill. 2d 63, 67 (2001); *Saline Branch Drainage Dist. v. Urbana-Champaign Sanitary Dist.*, 399 Ill. 189, 193 (1948).

This case suffers the same flaw as *Cahokia* and its predecessors. Plaintiffs seek an injunction or declaratory order directing defendants not to enforce the pretrial release provisions on the grounds that they are unconstitutional. Complaint ¶ 32. But no named defendant has authority to enforce those provisions, as plaintiffs all but concede. Plaintiffs suggest there may be adversity between them and the Governor because he "signed" the SAFE-T Act, thus "indicating his approval of" it, and because, more generally, the Illinois Constitution gives him "'the supreme executive power.'" *Id.* ¶¶ 152–53. But the same was true of the statute challenged in *Cahokia*, and the Illinois Supreme Court nonetheless held that case not justiciable, 2021 IL 126212, ¶ 41. Nor does the Attorney General's ability to intervene to defend a statute's constitutionality under Supreme Court Rule 19, *see* Complaint ¶ 151, make him an appropriate defendant in all actions challenging a statute's constitutionality, *see, e.g.*, *Doe v. Holcomb*, 883 F.3d 971, 976 (7th Cir. 2018) ("An attorney general cannot be sued simply because of his duty to support the constitutionality of a challenged state statute."); *Sherman v. Cmty. Consol. Sch. Dist. 21 of Wheeling Twp.*, 980 F.2d 437, 441 (7th Cir. 1992). The pretrial release provisions are enforced by judges in individual criminal proceedings, not by any of the defendants.

In the end, plaintiffs' challenges to the pretrial release provisions of the SAFE-T Act ignore ordinary justiciability principles. Those principles require the constitutionality of the SAFE-T Act's pretrial release provisions to be addressed in the context of individual criminal proceedings, not in a facial pre-enforcement attack by law enforcement officials who are not regulated by these provisions against state officers and political leaders who have no role in their enforcement. For this reason alone, the Court should grant defendants summary judgment on plaintiffs' claims challenging the SAFE-T Act's pretrial release provisions. But if the Court reaches the merits, it should reject these claims for the additional reasons discussed below.

B. The Pretrial Release Provisions Do Not Violate the Illinois Constitution's Bail Provision.

In Count III, plaintiffs contend the SAFE-T Act violates Article I, section 9 of the Illinois Constitution, which provides "[a]ll persons shall be bailable by sufficient sureties," with some exceptions not relevant here. The plain language of the constitutional text shows this bail provision confers a right to pretrial release on *criminal defendants*. It does not create any rights in state's attorneys or sheriffs. And it does not *require* the existence of monetary bail; if it did, then it would render unconstitutional the system of pretrial release that has existed for decades, and that plaintiffs wish to reinstate. Defendants are entitled to judgment as a matter of law.

As a threshold matter, the Constitution's bail provision may be vindicated only by the people on whom it confers an individual right—criminal defendants. This follows from its text and structure. In providing that "[a]ll persons shall be bailable by sufficient sureties," the bail provision clearly identifies criminal defendants as the subject of the right it confers. And its placement in the Bill of Rights confirms the right it confers is an individual one—belonging to those criminal defendants and no one else. Tellingly, plaintiffs do not allege they possess any individual rights—as a state's attorney and sheriff—that are protected by the plain language of the bail provision. Any argument the SAFE-T Act runs afoul of the bail provision must therefore be raised by a criminal defendant whose individual rights are allegedly violated. The Court should reject plaintiffs' challenge in Count III for lack of standing. *See Pub. Utils. Comm'n v. City of Dixon*, 292 Ill. 521, 523 (1920) (rejecting city's argument that forced sale violated consumers' due process rights under the Illinois Constitution and holding "[n]o one can raise that question except some consumer whose rights are in some way affected"); *AIDA v. Time Warner Ent. Co.*, 332 Ill. App. 3d 154, 160 (1st Dist. 2002) (no standing to enforce Bill of Rights' individual dignity clause absent injury to a specific person's rights protected by that clause).

Regardless, plaintiffs' challenge under the bail provision in Article I, section 9 also fails on the merits. Illinois is one of many states whose constitutions provide "[a]ll persons shall be bailable by sufficient sureties." These provisions reflect a long historical tradition guaranteeing a criminal defendant's right to pretrial release, which "was settled as a matter of colonial jurisprudence prior to the founding." *Thourtman v. Junior*, 338 So. 3d 207, 215 (Fla. 2022) (Couriel, J., concurring). Even earlier, "[t]he English Petition of Right of 1628, the indirect progenitor of colonial bail law, was specifically intended to secure 'the liberty of the subjects' from pretrial detention." Donald V. Verrilli, Jr., *The Eighth Amendment and the Right to Bail: Historical Perspectives*, 82 Colum. L. Rev. 328, 350 (1982). Consequently, courts interpreting these provisions uniformly emphasize that their purpose is to *protect* criminal defendants' fundamental liberty interests. *See, e.g., People v. Purcell*, 201 Ill. 2d 542, 545 (2002) (bail provision governs "[t]he right of an accused to obtain pretrial bail"); *Fry v. State*, 990 N.E.2d 429, 440 (Ind. 2013) ("[L]iberty is the norm, and detention prior to trial or without trial is the carefully limited exception."); *Commonwealth v. Talley*, 265 A.3d 485, 499 (Pa. 2021) (right to bail embodies "core tenets of our system of criminal justice," including the presumption of innocence); *see also Stack v. Boyle*, 342 U.S. 1, 4 (1951) ("This traditional right to freedom before conviction permits the unhampered preparation of a defense, and serves to prevent the infliction of punishment prior to conviction.").

The SAFE-T Act effectuates the text and purpose of the Constitution's bail provision to ensure that criminal defendants have the opportunity to access pretrial release. *See* Pub. Act 101-652, § 10-255 (amending 725 ILCS 5/102-6 to state that "'pretrial release' has the meaning ascribed to bail in Section 9 of Article I of the Illinois Constitution that is non-monetary"). The SAFE-T Act requires a criminal defendant to be released pending trial unless, in the case of a

felony defendant, the court specifically determines that the defendant poses a threat, as the Constitution expressly permits. *See* Ill. Const. art. I, § 9 (creating an exception for felony defendants "when the court, after a hearing, determines that the release of the offender would pose a real and present threat to the physical safety of any person"); Pub. Act 101-652, § 10-255 (amending 725 ILCS 5/110-6.1(a) to state that "the court shall hold a hearing and may deny a defendant pretrial release only if" the defendant poses a "real and present threat"). At the same time, the SAFE-T Act also requires "sufficient sureties" to secure the defendant's appearance by requiring courts to impose conditions of pretrial release that "will reasonably assure the appearance of defendant as required." Pub. Act 101-652, § 10-255 (amending 725 ILCS 5/110-5(a)); *see also id.* (amending 725 ILCS 5/110-4 to permit denial of pretrial release "when the defendant has a high likelihood of willful flight").

Plaintiffs insist the SAFE-T Act's pretrial release provisions run afoul of the Constitution's bail provision because, in their view, the bail provision *forbids* pretrial release *unless* the defendant posts monetary bail. Complaint ¶ 84. Plaintiffs thus seek to turn the important constitutional protection of pretrial release on its head. They confuse a constitutional floor (conferring the right to access pretrial release *at the very least* by posting monetary bail) for a constitutional ceiling (denying pretrial release *unless* the defendant posts monetary bail). Despite the long history of the Constitution's bail provision, and its ubiquity in almost every other state, no court has ever interpreted it as plaintiffs now ask this Court to do—to *restrict* criminal defendants' liberty interests by *requiring* monetary bail and thus *limiting* the opportunity to secure pretrial release far beyond its pre-SAFE-T Act contours.

The absence of any authority for plaintiffs' interpretation comes as no surprise, for their reading of the bail provision is unsupported by the plain language of the constitutional text. *See*

Purcell, 201 Ill. 2d at 549 ("The best guide to interpreting the Illinois Constitution is the document's own plain language."). Nothing in the bail provision's text requires that criminal defendants can be released only after monetary bail is imposed—or that all pretrial release decisions must involve a financial incentive to appear in court. This is clear from the use of term "bailable," which simply means "eligible for bail." *Bailable*, Black's Law Dictionary (11th ed. 2019). The bail provision thus confers a right on criminal defendants to be considered for a certain type of pretrial release—the one secured by monetary bail. But the language cannot plausibly be read to require that monetary bail must be imposed as a necessary condition to any type of pretrial release. The fact that criminal defendants are generally eligible to have a court set monetary bail does not imply that monetary bail is a prerequisite to release pending trial. The phrase "by sufficient sureties" does not support plaintiffs' argument either. A "surety" is not limited to assurances backed by a financial obligation but rather includes any "formal assurance; esp., a pledge . . . given for the fulfillment of an undertaking." *Surety*, Black's Law Dictionary (11th ed. 2019). The Constitution's text provides no support for plaintiffs' unprecedented theory that the bail provision requires the imposition of monetary bail in all cases of pretrial release.

Plaintiff's theory also runs contrary to decades of legislative practice and would upend the existing statutory scheme governing pretrial release. *See Graham v. Ill. State Toll Hwy. Auth.*, 182 Ill. 2d 287, 312 (1998) ("[T]he historical practice of the legislature may aid in the interpretation of a constitutional provision."). Indeed, the "default position" prior to the SAFE-T Act was "for criminal defendants to be released on their own recognizance" without requiring monetary bail. *See People v. Simmons*, 2019 IL App (1st) 191253, ¶ 13. Likewise, the "presumption" prior to the SAFE-T Act was "that any conditions of release shall be non-monetary in nature." 725 ILCS 5/110-5(a-5). Illinois has long authorized release on personal

recognizance when the court determines "that the defendant will appear as required [and] will not pose a danger to any person or the community [and] will comply with all conditions of bond." 725 ILCS 5/110-2. And the law authorizing release on personal recognizance is "liberally construed to effectuate the purpose of relying upon contempt of court proceedings or criminal sanctions instead of financial loss to assure the appearance of the defendant." *Id*. As these pre-SAFE-T Act provisions establish, it is simply false to suggest that monetary bail currently must be imposed whenever a criminal defendant is released before trial. In truth, the SAFE-T Act's pretrial release provisions are *consistent* with longstanding law and practice in Illinois authorizing pretrial release without monetary bail.

This longstanding system of release on personal recognizance reveals the error in plaintiffs' interpretation of the Constitution's bail provision. Their reading of the constitutional text—that it requires monetary bail to be imposed as a condition of pretrial release—cannot be reconciled with current or historical practice. Because it would necessitate the elimination of personal recognizance and require judges to impose monetary bail in every case, plaintiffs' view of the bail provision would require the Court to strike down not only the SAFE-T Act's pretrial release provisions but also the pretrial release provisions in effect today. Plaintiffs present their challenge as a modest effort to restore the traditional understanding of pretrial release. But the logical consequence of their argument would eviscerate the law as we know it today and usher in a new framework limiting pretrial release in unprecedented ways.

Plaintiffs try to skirt this problem by asserting that personal recognizance is just a type of bail. Complaint ¶ 85 ("[E]ven a release on personal recognizance involves an element of financial obligation being pledged to ensure the defendant's appearance."). This is simply incorrect. Bail is "[a] security"—specifically, a security "such as cash, a bond, or property; esp.,

security required by a court for the release of a criminal defendant who must appear in court at a future time." *Bail*, Black's Law Dictionary (11th ed. 2019); *see also* Complaint ¶ 82. Personal recognizance, on the other hand, is categorically different—it "means an undertaking *without security*." 725 ILCS 5/102-19 (emphasis added); *see also Personal Recognizance*, Black's Law Dictionary (11th ed. 2019) (explaining that release on personal recognizance "dispenses with the necessity of the person's posting money or having a surety sign a bond with the court"). Courts have recognized the practical importance of this distinction, explaining that "there is no authority for taking or requiring a surety where the defendant is released on his own recognizance." *People v. Wood*, 101 Ill. App. 3d 648, 650 (2d Dist. 1981). These authorities establish that personal recognizance is *not* just another type of bail, which means plaintiffs cannot escape the drastic consequences of their novel interpretation of the Constitution's bail provision. Because they insist it requires monetary bail in all cases of pretrial release—and because personal recognizance is categorically different from bail—plaintiffs' theory would render the *existing* pretrial release system unconstitutional and would invalidate the method of release on personal recognizance used every day in criminal courts throughout the state.

Under the text and history of the bail provision, expanding access to pretrial release only bolsters the right to bail in the Illinois Constitution. Plaintiffs' argument would overturn decades of law and practice and yield the absurd result that a criminal defendant can never be released pending trial unless the defendant posts monetary bail backed by sufficient sureties. Because plaintiffs' claim depends on an unprecedented reversal of the text and purpose of the Constitution's bail provision, and because their novel interpretation of that provision contradicts the system of pretrial release that has existed in Illinois for decades, the Court should reject plaintiffs' theory and grant defendants summary judgment on Count III.

C. Plaintiffs Lack Authority to Enforce the Crime Victims' Rights Amendment.

In Count IV, plaintiffs allege the SAFE-T Act's pretrial release provisions violate Article I, section 8.1 of the Illinois Constitution, known as the "crime victims' rights amendment." The Court should reject this claim because the amendment explicitly disclaims plaintiffs' authority to assert a claim based on rights that belong exclusively to crime victims.

The plain language of the crime victims' rights amendment shows no state's attorney or sheriff has authority to assert these rights. The amendment enumerates a dozen rights belonging to *crime victims*, including "[t]he right to have the safety of the victim and the victim's family considered in denying or fixing the amount of bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction." Ill. Const. art. I, § 8.1(a)(9). The constitutional text is clear that only "[t]he victim has standing to assert the rights enumerated" in the amendment. Ill. Const. art. I, § 8.1(b). And in providing that "[n]othing in this Section shall be construed to alter the powers, duties, and responsibilities of the prosecuting attorney," the amendment's text is equally clear that the rights it enumerates do not create any additional authority in prosecutors in particular. *See People v. Gomez-Ramirez*, 2021 IL App (3d) 200121, ¶ 29 (citing this language in denying state's attorney's argument that amendment expanded his powers). For this reason alone, defendants are entitled to summary judgment on plaintiffs' claim under the crime victims' rights amendment.

In any event, plaintiffs' theory also fails on the merits. They insist "a plain reading" of the crime victims' rights amendment "indicates an intention by the drafters of that provision that bail and possible denial of pre-trial release be parts of the criminal justice process." Complaint ¶ 124. But they cite no precedent supporting this interpretation, and for good reason, because the amendment says nothing of the sort. The rights it enumerates are primarily concerned with

process. They ensure crime victims are protected and treated with respect, Ill. Const. art. I, §§ 8.1(a)(1), (7), (8), given notice of key events, *id.* §§ 8.1(a)(2), (3), (6), have an opportunity to be heard, *id.* §§ 8.1(4), (5), (9), and can attend hearings, *id.* §§ 8.1(10), (11). These provisions aim to improve crime victims' interactions with the criminal justice system.

By contrast, there is nothing in the text, structure, purpose, or history of the crime victims' rights amendment that suggests it was intended to usher in substantive changes to the criminal justice system—or constitutionalize existing statutory schemes relating to pretrial release or any other matter of criminal procedure. The amendment does not "alter the fundamental principles on which our legal system is based." *People v. Nestrock*, 316 Ill. App. 3d 1, 10 (2d Dist. 2000). While the amendment requires judges to consider crime victims' concerns when making decisions about pretrial release, Ill. Const. art. I, § 8.1(a)(9), it cannot fairly be read to require that criminal defendants must be detainable under certain circumstances, much less that a particular form of pretrial release must be made available. Constitutional drafters, like legislators, do not "'hide elephants in mouseholes.'" *People ex rel. Ryan v. Agpro, Inc.*, 214 Ill. 2d 222, 228 (2005) (quoting *Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 468 (2001)). Because plaintiffs lack standing to sue under the crime victims' rights amendment and otherwise fail to present a valid claim, defendants are entitled to summary judgment on Count IV.

D. Plaintiffs' Separation of Powers Claim Fails Because They Cannot Show the Pretrial Release Provisions Are Unconstitutional Under Every Set of Facts.

In Count V, plaintiffs allege the SAFE-T Act's pretrial release provisions violate the separation of powers doctrine set forth in Article II, section 1 of the Illinois Constitution, which provides: "The legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another." This claim too fails as a matter of law.

The principle of separation of powers "does not mean that the legislative, executive, and

judicial power should be kept so entirely separate and distinct as to have no connection or dependence, the one upon the other; but its true meaning, both in theory and practice, is, that the whole power of two or more of these departments shall not be lodged in the same hands, whether of one or many." *Field v. People ex rel. McClernand*, 3 Ill. 79, 83–84 (1839); *see Kane Cty.*, 116 Ill. 2d at 206 (*Field*'s "principles have continued to guide the interpretation of successive constitutional texts"). Put another way, "[t]he separation of powers doctrine was not designed to achieve a complete divorce between the three departments of a single operating government." *City of Waukegan v. Pollution Control Bd.*, 57 Ill. 2d 170, 174 (1974). Rather, "[t]he legislature may enact laws involving judicial practice" without violating the separation of powers doctrine so long as those laws "do not infringe unduly upon the judiciary's inherent powers." *Murneigh v. Gainer*, 177 Ill. 2d 287, 303 (1997).

Here, the SAFE-T Act's pretrial release provisions operate alongside an inherent judicial power. "[A]s an incident of their power to manage the conduct of proceedings before them," Illinois judges possess the inherent power "to deny or revoke bail when such action is appropriate to preserve the orderly process of criminal procedure" and is "supported by sufficient evidence to show that it is required." *People ex rel. Hemingway v. Elrod*, 60 Ill. 2d 74, 79–80 (1975). The Illinois Supreme Court has articulated three circumstances where judges may exercise this power: (1) "to prevent interference with witnesses or jurors," (2) "to prevent the fulfillment of threats," and (3) "if a court is satisfied by the proof that an accused will not appear for trial regardless of the amount or conditions of bail." *Id.* at 80. The court has further defined the contours of this power by noting one circumstance where it may not be exercised: "we are not adopting the principle of preventive detention of one charged with a criminal offense for the protection of the public." *Id.* "The object of bail, of course, is to make certain the defendant's

appearance in court and is not allowed or refused because of his presumed guilt or innocence." *Id.* at 81. Thus, Illinois judges do not possess inherent power to detain criminal defendants on the mere suspicion it may protect members of the public.

Plaintiffs contend the SAFE-T Act's pretrial release provisions are unconstitutional because they violate the separation of powers doctrine by unduly infringing on the inherent judicial power recognized in *Hemingway*. Complaint ¶¶ 131–36. The claim fails for two independent reasons. First, plaintiffs cannot show the SAFE-T Act's pretrial release provisions are unconstitutional under every set of facts. Second, they cannot show those provisions infringe *unduly* on the inherent judicial power recognized in *Hemingway*.

Start with plaintiffs' failure to show the SAFE-T Act's pretrial release provisions are unconstitutional under every set of facts. Plaintiffs bring a facial challenge to the statute's constitutionality, rather than an as-applied challenge. *People v. Thompson*, 2015 IL 118151, ¶ 36. "The distinction is crucial." *People ex rel. Hartrich v. 2010 Harley-Davidson*, 2018 IL 121636, ¶ 11. "A facial challenge to the constitutionality of a legislative enactment is the most difficult challenge to mount successfully because an enactment is facially invalid only if no set of circumstances exists under which it would be valid. The fact that the enactment could be found unconstitutional under some set of circumstances does not establish its facial invalidity." *Napleton v. Vill. of Hinsdale*, 229 Ill. 2d 296, 305–06 (2008) (citations omitted). If it is merely "possible that specific future applications [ ] may produce actual constitutional problems, it will be time enough to consider any such problems when they arise." *Oswald*, 2018 IL 122203, ¶ 43.

Plaintiffs do not meet their burden to establish the SAFE-T Act's pretrial release provisions unduly infringe on the inherent judicial power recognized in *Hemingway* under all conceivable applications. That inherent judicial power is not, as plaintiffs suggest, a broad

authority to set or deny bail as judges see fit. *See* Complaint ¶ 134 (asserting judges have an "inherent" power "to set bail"). It is, instead, a narrow authority appropriately exercised under just three circumstances—(1) "to prevent interference with witnesses or jurors," (2) "to prevent the fulfillment of threats," and (3) "if a court is satisfied by the proof that an accused will not appear for trial regardless of the amount or conditions of bail." 60 Ill. 2d at 80. Further, "[t]his action must not be based on mere suspicion but must be supported by sufficient evidence to show that it is required." *Id.* at 79–80. The limited scope of this inherent judicial power makes it easy to identify at least one "situation in which [the SAFE-T Act's pretrial release provisions] could be validly applied" without infringing on that power. *Hill v. Cowan*, 202 Ill. 2d 151, 157 (2002); *see In re M.T.*, 221 Ill. 2d 517, 536 (2006) (plaintiffs must show "the statute would be invalid under *any* imaginable set of circumstances").

Assume, for example, a criminal defendant who shows no inclination to interfere with witnesses or jurors, who has made no other threats, and who is likely to appear for trial. The inherent judicial power recognized in *Hemingway* simply does not extend to this defendant because he does not satisfy any of the prerequisites for its exercise. 60 Ill. 2d at 80. That means the SAFE-T Act's pretrial release provisions can be applied to him without infringing on the inherent judicial power in any way—and therefore those provisions can be applied to at least one "imaginable set of circumstances" without violating the separation of powers doctrine. *M.T.*, 221 Ill. 2d at 536; *see People v. Taylor*, 102 Ill. 2d 201, 208 (1984) ("Only when a statute unduly infringes on the judicial authority will it be declared to be invalid."). As a result, plaintiffs' "facial challenge must fail." *Hill*, 202 Ill. 2d at 157.

It is also easy to imagine another set of circumstances where the SAFE-T Act's pretrial release provisions do not infringe in any way on the inherent judicial power recognized in

Hemingway. Assume a defendant charged with a class X felony who is shown, at a hearing, to have "a high likelihood of willful flight to avoid prosecution." *See* Pub. Act 101-652, § 10-255 (amending 725 ILCS 5/110-6.1(a)(7)(B)). Under the SAFE-T Act, a judge may deny pretrial release to this defendant. *Id.* So in this hypothetical too, there will be no infringement on the inherent judicial power recognized in *Hemingway*. That is yet another reason why plaintiffs' "facial challenge must fail." *Hill*, 202 Ill. 2d at 157.

Apart from plaintiffs' inability to show that the SAFE-T Act's pretrial release provisions infringe on the inherent judicial power recognized in *Hemingway*, plaintiffs cannot show that any such infringement is *undue*. "[T]he separation of powers provision does not prohibit every exercise of functions by one branch of government which ordinarily are exercised by another." *People v. Walker*, 119 Ill. 2d 465, 473–74 (1988). Thus, the mere existence of some overlap between a legislative enactment and an inherent judicial power is insufficient to establish a separation of powers violation. *Kunkel v. Walton*, 179 Ill. 2d 519, 528 (1997). Only undue infringement will suffice. *Taylor*, 102 Ill. 2d at 208.

The legislature has long asserted its authority to determine the standards and procedures governing pretrial release without constitutional challenge. Article 110 of the Code of Criminal Procedure, which governs this subject, has been effective in one form or another since 1964. 725 ILCS 5/art. 110; Laws 1963 at 2836. *Hemingway* itself recognizes the legislature and the judiciary each have a role to play in determining those rules. *E.g.,* 60 Ill. 2d at 79–84 (citing with approval multiple sections of Article 110 of the Code of Criminal Procedure). And plaintiffs do not dispute the legislature's role or seek a declaration of judicial supremacy in this field; to the contrary, they wish to preserve the current legislative framework governing pretrial release. Put another way, plaintiffs do not contend every piece of legislation governing pretrial release would

unduly infringe on an inherent judicial power. Rather, they insist the legislature unduly infringed on an inherent judicial power by replacing one legislative scheme with another.

These circumstances are analogous to those pertaining to criminal sentencing. Although "the power to impose sentence is exclusively a function of the judiciary," *People v. Davis*, 93 Ill. 2d 155, 161 (1982), the separation of powers doctrine is not violated "when legislatures exercise their acknowledged power to fix punishments for crimes" and thereby "necessarily limit the discretion of courts when imposing sentence," *Taylor*, 102 Ill. 2d at 208–09 (legislation requiring judges to impose "sentence of natural life imprisonment upon conviction of murdering more than one victim do not unduly infringe upon the judicial power" to impose sentence). Just so here. The SAFE-T Act's pretrial release provisions simply limit the judiciary's discretion in exercising its inherent powers in the field—just like the current pretrial release provisions set forth in Article 110 of the Code of Criminal Procedure limit the judiciary's discretion (albeit in substantively different ways). Perhaps limiting judicial discretion in this way could be said to infringe in some measure on the inherent power recognized in *Hemingway*. But given the legislature's acknowledged authority to determine the standards governing pretrial release, the infringement is not *undue*. Therefore, there is no violation of the separation of powers doctrine.[3]

Plaintiffs also complain in passing about amendments to 725 ILCS 5/110-6.1(f), which require disclosure of potentially relevant documents to a criminal defendant prior to a hearing on a petition to deny pretrial release. Plaintiffs contend this disclosure requirement is different from the one that appears in Supreme Court Rule 412, which generally governs pretrial disclosures to criminal defendants. Complaint ¶¶ 147–50. That is insufficient to establish a separation of powers violation. A statute may be declared unconstitutional on this basis only if its provisions

[3] Defendants reserve the right to ask the Illinois Supreme Court to overrule or limit *Hemingway*.

create a direct and irreconcilable conflict with an Illinois Supreme Court rule in an area of judicial supremacy. *People v. Peterson*, 2017 IL 120331, ¶ 31; *People v. Cox*, 82 Ill. 2d 268, 275–76 (1980). Here, plaintiffs cannot establish the existence of such a conflict. Section 110-6.1(f) merely supplements the disclosures required by Supreme Court Rule 412 under a particular circumstance. Plaintiffs' separation of powers claim must therefore fail.

III. Plaintiffs Are Not Entitled to a Preliminary Injunction.

Plaintiffs' final claim in Count VIII is for entry of a preliminary injunction. Complaint ¶¶ 207–19. The Court should reject this claim for multiple independent reasons.

First, an injunction is not a separate cause of action but rather a remedy a court may order under limited circumstances. *Kopnick v. JL Woode Mgmt. Co.*, 2017 IL App (1st) 152054, ¶ 34. It thus cannot provide plaintiffs with an independent basis for relief.

Second, the purpose of a preliminary injunction is to preserve the status quo until the merits are decided. *Buzz Barton & Assocs., Inc. v. Giannone*, 108 Ill. 2d 373, 382–88 (1985); *Guns Save Life, Inc. v. Raoul*, 2019 IL App (4th) 190334, ¶ 36. Although plaintiffs filed an emergency motion for preliminary injunction, Judge Parkhurst declined to hear it and instead urged the parties to expedite a merits decision, Docket (Oct. 5, 2022), which they agreed to facilitate by filing cross-motions for summary judgment. Now, with a merits decision looming, it is too late in the game for a preliminary injunction to serve any purpose.

Third, a preliminary injunction is unwarranted here given the nature of plaintiffs' claims and their relationship to the SAFE-T Act's structure. As noted above, the vast majority of the statute's provisions—virtually every provision except those governing pretrial release—have been in effect for almost 18 months. No injunction—preliminary or otherwise—is warranted as to those provisions because the equities tilt strongly in favor of their continued enforcement

during the pendency of this case. *See Guns Save Life*, 2019 IL App (4th) 190334, ¶¶ 68–70 (denying injunctive relief that would halt enforcement of entire statutory scheme).

As to the pretrial release provisions, as explained above, *see* Section II.A, an injunction is equally unwarranted—indeed, wholly improper—because the named defendants do not enforce any of those provisions; rather, those provisions are enforced by judges in individual criminal proceedings. With respect to these provisions, plaintiffs are thus asking the Court to enjoin defendants from enforcing a statute they do not, and cannot, enforce. This does not satisfy the stringent standard for an injunction. "An injunction is a judicial process operating in personam and requiring a person to whom it is directed to do or refrain from doing a particular thing." *Skolnick v. Altheimer & Gray*, 191 Ill. 2d 214, 221 (2000) (cleaned up). An injunction is "directed to a party defendant in the action," not to the world at large. *TIG Ins. Co. v. Canel*, 389 Ill. App. 3d 366, 370–71 (1st Dist. 2009). A court might, in appropriate circumstances, enjoin named defendants from enforcing a challenged statute. But it may not enjoin the statute itself. *See Skolnick*, 191 Ill. 2d at 221; *TIG Ins.*, 389 Ill. App. 3d at 370–71.

Finally, a preliminary injunction is "an extreme remedy which should be employed only in situations where an emergency exists and serious harm would result if the injunction is not issued." *Callis, Papa, Jackstadt & Halloran, P.C. v. Norfolk & W. Ry.*, 195 Ill. 2d 356, 365 (2001). Plaintiffs cannot show they will suffer "serious harm" if defendants are not enjoined from doing something they have not done and have no authority to do. For these reasons, too, plaintiffs' claim for a preliminary injunction must fail.

CONCLUSION

Plaintiffs fail to establish the SAFE-T Act as a whole, or its pretrial release provisions in particular, run afoul of the Illinois Constitution. Defendants are entitled to summary judgment.

Dated: November 9, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned, an attorney, hereby certify that I will cause to be served copies of the foregoing *Memorandum in Support of Defendants' Motion for Summary Judgment* via electronic mail upon those listed below on November 9, 2022:

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/ R. Douglas Rees
R. Douglas Rees, ARDC No. 6201825

Exhibit A

In re SAFE-T Act Litigation

Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Rowe v. Raoul No. 2022CH16	Kankakee	**James R. Rowe**, Kankakee County State's Attorney; **Michael Downey**, Kankakee County Sheriff	**Kwame Raoul**, Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois	X	X	X	X	X	X	X
Farha v. Raoul No. 2022MR37	Adams	**Gary L. Farha,** Adams County State's Attorney	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois; **Emanuel Christopher Welch**, Speaker of the House; **Donald F. Harmon**, Senate President		X	X	X	X		
Smith v. Raoul No. 2022CH16	Boone	**Tricia L. Smith,** Boone County State's Attorney; **David Ernest,** Boone County Sheriff	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois; **Emanuel Christopher Welch**, Speaker of the House; **Donald F. Harmon**, Senate President		X	X	X	X	X	

Exhibit A

Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Hill v. Raoul No. 2022MR18	Brown	**Michael L. Hill,** Brown County State's Attorney; **Justin Oliver,** Brown County Sheriff	**Kwame Raoul,** Attorney General, State of Illinois; **Jay Robert Pritzker**, Governor, State of Illinois; **Emanuel Christopher Welch**, Speaker of the House of Representatives; **Donald F. Harmon**, President of the Illinois Senate		X	X	X	X		
Kaney v. Raoul No. 2022MR5	Carroll	**Aaron C. Kaney,** in his official capacity as Carroll County State's Attorney and on behalf of the People of the State of Illinois; **Ryan Kloepping,** in his official capacity as Carroll County Sheriff	**Kwame Raoul**, in his official capacity as Illinois Attorney General; **Governor J.B. Pritzker,** in his official capacity as Governor of the State of Illinois		X	X	X	X	X	
Miller v. Pritzker No. 22-MR-7	Cass	**Craig Miller,** Cass County State's Attorney; **Devron Ohrn,** Cass County Sheriff	**J.B. Pritzker,** Governor of Illinois; **Emanuel C. Welch,** Speaker of the House; **Donald F. Harmon,** Senate President (all named in their official capacities)		X	X	X	X	X	X

Exhibit A

Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Givens v. Raoul No. 2022MR14	Clay	**Phillip M. Givens**, Clay County State's Attorney	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the House; **Donald F. Harmon,** Senate President		X	X	X	X		
Brandmeyer v. Raoul No. 2022MR24	Clinton	**J.D. Brandmeyer,** Clinton County State's Attorney; **Daniel Travous,** Clinton County Sheriff	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the Illinois House of Representatives; **Donald F. Harmon,** President of the Illinois Senate		X	X	X	X	X	
Danley v. Raoul No. 2022MR49	Coles	**Jesse Danley,** Coles County State's Attorney; **Tyler Heleine,** Coles County Sheriff	**Kwame Raoul**, Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois		X	X	X	X	X	

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Robbins v. Raoul No. 22-CH-4	Cumberland Filed 11/3/22 Rec'd via email 11/3	**Bryan D. Robbins,** Cumberland County State's Attorney; **Steve Maroon,** Cumberland County Sheriff	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the House; **Donald F. Harmon,** Senate President	X	X	X	X	X	X	X
Amato v. Raoul No. 2022CH000021	DeKalb	**Rick Amato,** in his official capacity as DeKalb County State's Attorney, and on behalf of the People of the State of Illinois; **Andrew Sullivan,** in his official capacity as DeKalb County Sheriff	**Kwame Raoul,** in his official capacity as Illinois Attorney General; **Jay Robert Pritzker**, in his official capacity as Governor of the State of Illinois; **Emanuel Christopher Welch**, in his official capacity as Speaker of the House; **Donald F. Harmon**, in his official capacity as Senate President		X	X	X	X	X	X

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Markwell v. Raoul No. 22-MR-11	DeWitt	**Dan Markwell,** DeWitt County State's Attorney; **Mike Walker,** DeWitt County Sheriff	**Kwame Raoul, Illinois** Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the House; **Donald F. Harmon,** Senate President		X	X	X	X	X	
Watson v. Raoul No. 2022MR9	Douglas	**Kate Watson, Douglas County State's Attorney;** **Nathan Chaplin, Douglas County Sheriff**	**Kwame Raoul,** Attorney General, State of Illinois; **Jay Robert Pritzker**, Governor, State of Illinois; **Emanuel Christopher Welch**, Speaker of the House of Representatives; **Donald F. Harmon**, President of the Illinois Senate		X	X	X	X		

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Jones v. Raoul No. 2022MR15 Unassigned (as of 10/3) 5th App. Dist.	Effingham	**Aaron C. Jones,** Effingham County State's Attorney	**Kwame Raoul**, Illinois Attorney General; **Governor JB Pritzker,** Governor of Illinois **Emanuel Christopher Welch**, Speaker of the House; **Donald F. Harmon**, Senate President		X	X	X	X		
Morrison v. Raoul No. 2022MR42	Fayette	**Joshua Morrison,** Fayette County State's Attorney; **David Russell,** Fayette County Sheriff	**J.B. Pritzker,** Governor of Illinois; **Emanuel C. Welch,** Speaker of the House; **Donald F. Harmon,** Senate President (all named in their official capacities)		X	X	X	X	X	X
Killian v. Raoul No. 2022CH6 4th App. Dist.	Ford	**Andrew L. Killian,** Ford County State's Attorney	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois		X	X	X	X	X	

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Dinn v. Raoul No. 2022MR23	Franklin	**Abigail D. Dinn, Franklin County State's Attorney**	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the House; **Donald F. Harmon,** Senate President		X	X	X	X		
Jochums v. Raoul No. 2022MR00016	Fulton	**Justin G. Jochums,** Fulton County State's Attorney; **Jeffrey A. Standard,** Fulton County Sheriff	**Kwame Raoul,** Attorney General, State of Illinois; **Jay Robert Pritzker,** Governor, State of Illinois; **Emanuel Christopher Welch,** Speaker of the House of Representatives; **Donald F. Harmon,** Senate President		X	X	X	X	X	

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Briscoe v. Raoul No. 22MR9	Greene	**Caleb L. Briscoe,** Greene County State's Attorney; **Robert McMillen,** Green County Sheriff	**Kwame Raoul,** Attorney General, State of Illinois; **Jay Robert Pritzker,** Governor, State of Illinois; **Emanuel Christopher Welch,** Speaker of the House of Representatives; **Donald F. Harmon,** President of the Illinois Senate		X	X	X	X		
Helland v. Raoul No. 2022CH10 Hon. Sheldon Sobol 3rd App. Dist.	Grundy	**Jason Helland,** in his official capacity as Grundy County State's Attorney; **Ken Briley,** in his official capacity as Grundy County Sheriff	**Kwame Raoul,** in his official capacity as Illinois Attorney General; **Jay Robert Pritzker**, in his official capacity as Governor of the State of Illinois		X	X				
Mast v. Raoul No. 2022-MR-0038	Hancock	**Rachel B. Mast,** Hancock County State's Attorney; **Travis Duffy,** Hancock County Sheriff	**Kwame Raoul,** Attorney General, State of Illinois; **Jay Robert Pritzker,** Governor, State of Illinois		X	X	X	X		

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Cervantez v. Raoul No. 2022MR37	Jackson	**Joseph A. Cervantez,** in his official Capacity as Jackson County State's Attorney, And on behalf of the People of the State of Illinois	**Kwame Raoul,** in his official Capacity as Illinois Attorney General; **Jay Robert Pritzker,** in his Official capacity as Governor of Illinois; **Emanuel Christopher Welch,** in his official capacity as Speaker of the House; **Donald F. Harmon,** in his official Capacity as Senate President		X	X	X	X		
Treccia v. Raoul No. 2022MR5	Jasper	**James S. Treccia,** Jasper County State's Attorney	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the House; **Donald F. Harmon,** Senate President		X	X	X	X		

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Featherstun v. Raoul No. 22-MR-43	Jefferson	**Sean M. Featherstun,** Jefferson County State's Attorney	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the House; **Donald F. Harmon,** Senate President		X	X	X	X		
Goetten v. Raoul No. 2022MR22	Jersey	**Benjamin Goetten,** Jersey County State's Attorney	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the House; **Donald F. Harmon,** Senate President		X	X	X	X		
Allendorf v. Raoul No. 2022MR7	Jo Daviess	**Christopher D. Allendorf**, in his official capacity as Jo Daviess County State's Attorney and on behalf of the People of the State of Illinois; **Kevin W. Turner**, in his official capacity as Jo Daviess County Sheriff	**Kwame Raoul,** in his official capacity as Illinois Attorney General; **Jay Robert Pritzker,** in his official capacity as Governor of Illinois		X	X	X	X	X	

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Cain v. Raoul No. 2022MR13	Johnson	**Tambra M. Cain,** Johnson County State's Attorney; **Pete Sopczak,** Johnson County Sheriff	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the House; **Donald F. Harmon,** Senate President		X	X	X	X		
Weis v. Raoul No. 2022MR000062 2nd App. Dist.	Kendall	**Eric C. Weis**, in his official capacity as Kendall County State's Attorney; **Dwight Baird**, in his official capacity as Kendall County Sheriff	**Kwame Raoul,** in his official capacity as Illinois Attorney General; **Jay Robert Pritzker**, in his official capacity a Governor of Illinois		X	X	X	X		X
Karlin v. Raoul No. 2022MR60	Knox	**Jeremy S. Karlin,** Knox County State's Attorney; **David Clague,** Knox County Sheriff	**Kwame Raoul,** Attorney General, State of Illinois; **Jay Robert Pritzker,** Governor, State of Illinois; **Emanuel Christopher Welch,** Speaker of the House of Representatives; **Donald F. Harmon,** Senate President		X	X	X	X		

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Navarro v. Raoul No. 2022CH000026	LaSalle	**Joseph Navarro,** LaSalle County State's Attorney; **Adam Diss,** LaSalle County Sheriff	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois		X	X	X	X	X	
Boonstra v. Raoul No. 2022CH00012	Lee	**Charles A. Boonstra,** Lee County State's Attorney; **John Simonton,** Lee County Sheriff	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the House of Representatives; **Donald F. Harmon,** Senate President	X	X	X	X	X	X	X
Yedinak v. Raoul No. 2022MR28	Livingston	**Randy A. Yedinak,** Livingston County State's Attorney; **Jeffrey G. Hamilton,** Sheriff of Livingston County, Illinois	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the House of Representatives; **Donald F. Harmon,** Senate President		X	X	X	X	X	X

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Hauge v. Raoul No. 2022CH5	Logan	**Bradley M. Hauge,** Logan County State's Attorney; **Mark Landers,** Sheriff of Logan County, Illinois	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the House of Representatives; **Donald F. Harmon,** Senate President		X	X	X	X	X	X
Rueter v. Raoul No. 2022MR368	Macon	**Scott A. Rueter,** Macon County State's Attorney; **Jim Root,** Macon County Sheriff	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the Illinois House of Representatives; **Donald F. Harmon,** Illinois Senate President		X	X	X	X	X	

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Haine v. Raoul No. 2022-MR-226	Madison	**Thomas A. Haine,** Madison County State's Attorney**;** **John D. Lakin,** Madison County Sheriff	**Kwame Raoul,** in his capacity as Illinois Attorney General; **Jay Robert Pritzker**, in his capacity as Governor of the State of Illinois; **Emanuel Christopher Welch**, in his capacity as Speaker of the House; **Donald F. Harmon**, in his capacity as Senate President		X	X	X	X		
Bryant v. Raoul No. 22MR17	Mason	**Zachary A. Bryant,** in his official capacity as Mason County State's Attorney, and on behalf of the People of the State of Illinois; **Paul Gann,** in his official capacity as Mason County Sheriff	**Kwame Raoul,** in his official capacity as Illinois Attorney General; **Governor J.B. Pritzker**, in his official capacity as Governor of the State of Illinois; **Emanuel Christopher Welch**, in his official capacity as Speaker of the House; **Donald F. Harmon**, in his official capacity as Senate President	X	X	X	X	X	X	X

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Stratemeyer v. Raoul No. 22-MR-35	Massac	**Joshua A. Stratemeyer,** Massac County State's Attorney; **Chad Kaylor,** Massac County Sheriff	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois		X	X	X	X	X	
Kwacala v. Raoul No. 2022MR20	McDonough	**Matthew P. Kwacala,** McDonough County State's Attorney; **Nick Petitgout,** McDonough County Sheriff	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois		X	X	X	X	X	
Kenneally v. Raoul No. 2022MR000177	McHenry	**Patrick Kenneally**, in his official capacity as McHenry County State's Attorney, and on behalf PEOPLE OF THE STATE OF ILLINOIS; **McHenry County**, body politic and corporate	**Kwame Raoul**, in his official capacity as Illinois Attorney General; **Governor J.B. Pritzker**, in his official capacity as Governor of the State of Illinois		X		X			X

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Reynolds v. Raoul No. 2022MR000158	McLean	**Erika Reynolds,** McLean County State's Attorney; **Jon Sandage,** Sheriff of McLean County, Illinois	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the House; **Donald F. Harmon,** Senate President		X	X	X	X	X	X
Simpson v. Raoul No. 22-MR-11	Mercer	**Grace A. Simpson,** in her official capacity as Mercer County State's Attorney and on behalf of the People of the State ofIllinois	**Kwame Raoul**, in his official capacity as Illinois Attorney General; **Governor J.B. Pritzker,** in his official capacity as Governor of the State of Illinois		X	X	X			X
Liefer v. Raoul No. 2022MR21	Monroe	**Lucas H. Liefer,** Monroe County State's Attorney; **Neal Rohlfing,** Monroe County Sheriff	**Kwame Raoul,** Attorney General, State of Illinois; **Jay Robert Pritzker,** Governor, State of Illinois; **Emanuel Christopher Welch,** Speaker of the House of Representatives; **Donald F. Harmon,** Senate President		X	X	X	X		

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Affrunti v. Raoul No. 2022-MR-000031	Montgomery	**Andrew Affrunti,** Montgomery County State's Attorney; **Rick Robbins,** Montgomery County Sheriff	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois		X	X	X	X	X	
Weaver v. Raoul No. 2022 MR 13	Moultrie	**Tracy L. Weaver**, Moultrie County State's Attorney	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois; **Emanuel Christopher Welch**, Speaker of the House; **Donald F. Harmon**, Senate President		X	X	X	X		X
Rock v. Raoul No. 2022CH8	Ogle	**Mike Rock,** Ogle County State's Attorney; **Brian Vanvickle,** Ogle County Sheriff	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois		X	X	X	X	X	

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Searby v. Raoul No. 2022MR13	Perry	**David H. Searby, Jr.,** Perry County State's Attorney	**Kwame Raoul,** Attorney General, State of Illinois; **Jay Robert Pritzker,** Governor, State of Illinois; **Emanuel Christopher Welch,** Speaker, Illinois House of Representatives; **Donald F. Harmon,** President, Illinois Senate		X	X	X	X		
Olson v. Raoul No. 2022-MR-3	Pope	**Jason A. Olson,** Pope County State's Attorney	**Kwame Raoul,** Attorney General, State of Illinois; **Jay Robert Pritzker,** Governor, State of Illinois; **Emanuel Christopher Welch,** Speaker of the House of Representatives; **Donald F. Harmon,** Senate President		X	X	X	X		

Exhibit A

Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Casper v. Raoul No. 2022MR6	Pulaski	**Lisa C. Casper,** Pulaski County State's Attorney; **Randy Kern,** Pulaski County Sheriff	**Kwame Raoul**, Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois; **Emanuel Christopher Welch**, Speaker of the House; **Donald F. Harmon**, Senate President		X	X	X	X	X	
Walker v. Raoul No. 2022MR30	Randolph	**Jeremy R. Walker,** Randolph County State's Attorney	**Kwame Raoul**, Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois; **Emanuel Christopher Welch**, Speaker of the House; **Donald F. Harmon**, Senate President		X	X	X	X		
Kasiar v. Raoul No. 2022MR20	Saline	**Molly W. Kasiar,** Saline County State's Attorney	**Kwame Raoul**, Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois; **Emanuel Christopher Welch**, Speaker of the House; **Donald F. Harmon**, Senate President		X	X	X	X		

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Wright v. Pritzker No. 2022-MR-000427 Hon. Gail L. Noll 4th App. Dist.	Sangamon	**Dan Wright,** Sangamon County State's Attorney**;** **Jack Campbell,** Sangamon County Sheriff	**J.B. Pritzker,** Governor of Illinois; **Emanuel C. Welch,** Speaker of the House; **Donald F. Harmon,** Senate President, all named in their official capacities		X	X	X	X	X	X
Crews v. Raoul No. 22-MR-7	Scott	**Richard K. Crews,** Scott County State's Attorney; **Thomas R. Eddinger,** Scott County Sheriff	**Kwame Raoul**, Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois; **Emanuel Christopher Welch**, Speaker of the House; **Donald F. Harmon**, Senate President		X	X	X	X		
Kroncke, v. Raoul No. 2022MR10	Shelby	**Nichole Kroncke,** Shelby County State's Attorney, County, Illinois	**Kwame Raoul**, Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois; **Emanuel Christopher Welch**, Speaker of the House, as successor to Mike Madigan; **Donald F. Harmon**, Senate President		X	X	X	X	X	X

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Larson v. Raoul No. 22CH3	Stephenson	**Carl H. Larson,** Stephenson County State's Attorney; **David Snyders,** Stephenson County Sheriff	**Kwame Raoul**, Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois		X	X	X	X		
Johnson v. Raoul No. 2022-MR-000073	Tazewell	**Kevin Johnson,** Tazewell County State's Attorney; **Jeffrey Lower,** Tazewell County Sheriff	**Kwame Raoul,** Attorney General, State of Illinois; **Jay Robert Pritzker,** Governor, State of Illinois; **Emanuel Christopher Welch,** Speaker of the Illinois House of Representatives; **Donald F. Harmon,** President of the Illinois Senate		X	X	X	X	X	
Tripp v. Raoul No. 2022MR7	Union	**Tyler E. Tripp,** Union County State's Attorney; **Dale Foster,** Union County Sheriff	**Kwame Raoul**, Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois; **Emanuel Christopher Welch**, Speaker of the House; **Donald F. Harmon**, Senate President		X	X	X	X	X	

Exhibit A

Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	Single subject rule	"Bailable by sufficient sureties" (Art. I § 9)	Separation of powers	Three readings	Vagueness	Crime victim's rights
Lacy v. Raoul No. 2022MR45	Vermilion	**Jacqueline M. Lacy,** in her official capacity as Vermilion County State's Attorney, and on behalf of the People of the State of Illinois	**Kwame Raoul**, in his official capacity as Illinois Attorney General; **Governor JB Pritzker,** in his official capacity as Governor of the State of Illinois		X	X	X			X
Janowski v. Raoul No. 2022MR11	Washington	**Daniel R. Janowski,** Washington County State's Attorney	**Kwame Raoul**, Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois; **Emanuel Christopher Welch**, Speaker of the House; **Donald F. Harmon**, Senate President		X	X	X	X		
Aud v. Raoul No. 2022MR7	White	**Denton W. Aud,** White County State's Attorney	**Kwame Raoul**, Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois; **Emanuel Christopher Welch**, Speaker of the House; **Donald F. Harmon**, Senate President		X	X	X	X		

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Case Name & Number	County	Plaintiff(s) *as listed in caption*	Defendant(s) *as listed in caption*	Claims						
				Constitutional amendment (Art. XIV § 2)	**Single subject rule**	**"Bailable by sufficient sureties" (Art. I § 9)**	**Separation of powers**	**Three readings**	**Vagueness**	**Crime victim's rights**
Glasgow v. Raoul No. 2022MR000307	Will	**James W. Glasgow**, Will County State's Attorney	**Kwame Raoul**, Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois; **Emanuel Christopher Welch**, Speaker of the House; **Donald F. Harmon**, Senate President		X	X	X	X		
Hanley v. Raoul No. 2022MR373	Winnebago	**J. Hanley,** Winnebago County State's Attorney; **Gary Caruana,** Winnebago County Sheriff	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker**, Governor of Illinois; **Emanuel Christopher Welch**, Speaker of the House; **Donald F. Harmon**, President of the Illinois Senate		X	X	X	X	X	X
Minger v. Raoul No. 2022CH7	Woodford	**Gregory M. Minger,** Woodford County State's Attorney; **Matthew Smith,** Sheriff of Woodford County, Illinois	**Kwame Raoul,** Illinois Attorney General; **Jay Robert Pritzker,** Governor of Illinois; **Emanuel Christopher Welch,** Speaker of the House; **Donald F. Harmon,** Senate President		X	X	X	X	X	X