



7. On March 9, 2020, Governor Pritzker declared a State of Emergency in response to the novel coronavirus (COVID-19). On March 17, 2020, the Illinois Supreme Court issued an emergency order in light of the governor’s proclamation. Citing its “general administrative and supervisory authority over the courts” under Article VI, Section 16 of the Illinois Constitution of 1970, the court ordered lower courts to adopt precautionary measures, but to continue to hear essential matters and proceedings.
8. On March 20, 2020, the court issued another order, again citing Article VI, Section 16 of the Illinois Constitution. The order states that “the Chief Judges of each circuit may continue trials for the next 60 days and until further order of this Court. In the case of criminal proceedings, any delay resulting from this emergency continuance order shall not be attributable to either the State or the defendant for purposes of section 103-5 of the Code of Criminal Procedure of 1963.” On April 3, 2020, this order was amended to allow the circuit courts continue trials “until further order of this Court.” It reiterated that these continuances would not be attributable to either the State or the defendant, or to juveniles in juvenile delinquency proceedings, for purposes of section 103-5 of the Code of Criminal Procedure and section 5-601 of the Juvenile Court Act.
9. The March 20 and April 3 orders were amended a final time on April 7, 2020. The order currently reads:

The Chief Judges of each circuit may continue trials until further order of this Court. The continuances occasioned by this Order serve the ends of justice and outweigh the best interests of the public and defendants in a speedy trial. Therefore, such continuances shall be excluded from speedy trial computations contained in section 103-5 of the Code of Criminal Procedure of 1963 (725 ILCS 5/103-5 (West 2018)) and section 5-601 of the Illinois Juvenile Court Act (705 ILCS 405/5-601 (West 2018)). Statutory time restrictions in section 103-5 of the Code of Criminal Procedure of 1963 and section 5-601 of the Juvenile Court Act shall be tolled until further order of this Court.
10. “The legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another.” Ill. Const.1970, art. II, § 1. The above supreme court orders, allowing for indefinite delay of trials and suspension of the legislatively enacted Speedy Trial Act, violates Article II, Section 1 of the Illinois Constitution.
11. The Speedy Trial Act is a proper legislative expansion of defendant’s Sixth Amendment rights, and does not encroach on the judiciary branch. *People v. Christy*, 206 Ill. App. 3d 361, 367 (4th Dist. 1990). Conversely, the judicial branch has no authority to thwart the legislative branch by suspending or reading exemptions into statutes, so as to make them conform with the court’s policy preferences. *Bd. of Educ. of Roxana Cmty. Sch. Dist. No. 1 v. Pollution Control Bd.*, 2013 IL 115473, ¶25.
12. The Speedy Trial Act contains exceptions, but none of these exceptions allow for suspension of the statute pursuant to the “general administrative and supervisory

authority over the courts.” See 725 ILCS 5/103-5(a) (exceptions for delays attributable to fitness examinations, fitness hearings, and findings of unfitness); 725 ILCS 5/103-5(c) (exceptions for evidentiary delays occasioned despite due diligence).

13. Nor does the administrative or supervisory authority bestowed upon the courts by Article 6, Section 14 of the Illinois Constitution allow the court to interfere with a constitutional enactment of the legislature. Although the court’s rules may override statutes concerning court procedures, the court has not promulgated rules concerning speedy trials, and has therefore left the matter to the legislature.
14. As the Illinois Supreme Court itself recently held, “The responsibility for the wisdom of legislation rests with the legislature, and courts may not rewrite statutes to make them consistent with the court’s idea of orderliness and public policy.” *Citibank, N.A. v. Illinois Dep’t of Revenue*, 2017 IL 121634, ¶ 70. “When a statute is unambiguous, it must be enforced as enacted, and a court may not depart from its plain language by reading into it exceptions, limitations, or conditions not expressed by the legislature.” *People v. Carpenter*, 228 Ill. 2d 250, 270 (2008), quoting *People v. Wright*, 194 Ill. 2d 1 (2000).
15. The emergency orders of April 3 and April 7, 2020, represent an attempt by the judicial branch to rewrite, and as a result suspend, a statute. At the very least, the orders read into the statute exceptions not included by the legislature in an attempt to make them “consistent with the court’s idea of orderliness and public policy.” See *Citibank, N.A.*, 2017 IL 121634 at ¶70. But the Illinois Supreme Court well knows that “if there is to be a change in the law of this State on this matter, it is for the legislature and not the courts to bring about that change.” *In re Marriage of Turk*, 2014 IL 116730, ¶ 32.
16. As such, the orders violate the Supreme Court’s own well-established conception of separation of powers, and must be found unconstitutional. In the event the Speedy Trial Act requires amendment in order to conform with the needs of public policy, that job plainly lies with the legislature, not the courts.
17. Additionally, the Illinois Supreme Court’s decision to indefinitely suspend speedy trial rights has no impact on defendant’s constitutional rights. Defendant asks in the alternative that charges be dismissed pursuant to the Sixth and Fourteenth Amendments of the Federal Constitution and Article 1, Section 8 of the Illinois Constitution.
18. The constitutional right to a speedy trial is not specifically defined, but is generally analyzed by looking at: the length of the delay; the reasons for the delay; the prejudice, if any, to the defendant; and defendant’s assertion of his right. *Barker v. Wingo*, 407 U.S. 514, 530 (1972).
19. In this case, the factors weigh in favor of defendant:

[Utilize the *Barker v. Wingo* factors to your client’s motion]