

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT  
SANGAMON COUNTY, ILLINOIS**

DAN WRIGHT, SANGAMON COUNTY STATE'S )  
ATTORNEY, and JACK CAMPBELL, SANGAMON )  
COUNTY SHERIFF, )

Plaintiffs, )

v. )

J.B. PRITZKER, GOVERNOR OF ILLINOIS, )  
EMANUEL C. WELCH, SPEAKER OF THE HOUSE, )  
and DONALD F. HARMON, SENATE PRESIDENT )  
(ALL NAMED IN THEIR OFFICIAL CAPACITIES) )

Defendants. )

2022MR000427

22-MR-

**VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF**

**NOW COMES** Dan Wright, Sangamon County State's Attorney, on his own behalf and on behalf of Sheriff Jack Campbell (hereinafter "Plaintiffs"), and for their Verified Complaint for Declaratory Judgment and Injunctive Relief, state the following:

**PARTIES**

1. Plaintiff Dan Wright is the duly elected State's Attorney of Sangamon County, Illinois, who has the authority to prosecute this cause of action on behalf of the People of Sangamon County pursuant to Section 3-9005(a)(1) of the Counties Code, 55 ILCS 5/3-9005(a)(1). In addition to the statutory duties and responsibilities afforded the Sangamon County State's Attorney, he is vested with common law and constitutional authority analogous and largely concurrent to the Illinois Attorney General, which includes the duty to represent the People in matters which affect the public interest. As the duly elected State's Attorney of Sangamon County,

Wright is both a Constitutional and statutory officer.

2. Among Wright's duties and responsibilities are the authority to prosecute all civil and criminal actions within his county in which the People or the County are interested, prosecute offenses under the various laws of the State of Illinois, as well as to inquire as to the source of any bond money posted by an individual charged with a criminal offense, and to seek increase in bond amounts or changes in conditions of release as necessary to preserve public safety. 55 ILCS 5/3-9005; 725 ILCS 5/110-5(b-5); 725 ILCS 5/110-6(a).

3. Also among Wright's duties and responsibilities, along with all other Illinois State's Attorneys, is the administration of internal operations of their respective offices. 55 ILCS 5/3-9006.

4. Plaintiff Jack Campbell is the duly elected Sheriff of Sangamon County; among his duties is the enforcement of civil and criminal statutes, as well as supervision and security of the Sangamon County Complex and all individuals incarcerated at the Sangamon County Jail.

5. In accordance with Article XIII, Section 3 of the Illinois Constitution, Plaintiffs are sworn to "support the Constitution of the United States and the Constitution of the State of Illinois . . ." including the exercise of legal remedies to ensure legislation affecting public safety comports with the Illinois Constitution. Ill. Const. 1970, art. XII, § 3. Failure to support and defend any provision of the Illinois Constitution weakens the strength of all and compromises the rights of every citizen.

6. Defendant Pritzker is the duly elected Governor of the State of Illinois. Under Article V, Section 8 of the Illinois Constitution, the Governor "shall have the supreme executive power and shall be responsible for the faithful execution of the laws." Ill. Const. 1970, art. V, § 8.

7. Defendant Welch is the duly elected Speaker of the Illinois House of

Representatives. Upon information and belief, during the process involved in the legislature's passage of HB 3653, the Speaker of the House indicated that all procedural requirements for the passage of HB 3653 were met.

8. Defendant Harmon is the duly elected president of the Illinois Senate. Upon information and belief, during the process involved in the legislature's passage of HB 3653, Defendant Harmon indicated that all procedural requirements for the passage of HB 3653 were met.

### **FACTS COMMON TO ALL COUNTS**

9. House Bill 3653, referred to as the "SAFE-T Act" (hereinafter "HB 3653" or "Public Act 101-652") was originally introduced in the Illinois House of Representatives by Representative Curtis J. Tarver II on February 15, 2019. *See* 101st Ill. Gen. Assem., House Proceedings, Feb. 15, 2019, at 45, *available at* <https://bit.ly/3RNdRb2> (last accessed Oct. 5, 2022).

10. As introduced, HB 3653 consisted of seven (7) pages and sought to amend provisions of 730 ILCS 5/3-14-1. *See* 101st Ill. Gen. Assem., House Bill 3653, 2019 Sess., *available at* <https://bit.ly/3SWcVBW> (last accessed Oct. 5, 2022).

11. The synopsis for HB 3653 indicated that, initially, it primarily focused on voter registration issues for incarcerated individuals. *Id.* at 1.

12. HB3653 received three (3) readings in the House and was passed on April 3, 2019. *See* 101st Ill. Gen. Assem., House Proceedings, Feb. 15, 2019, at 45; 101st Ill. Gen. Assem., House Proceedings, Apr. 2, 2019, at 38, *available at* <https://bit.ly/3rwyRYH> (last accessed Oct. 5, 2022); 101st Ill. Gen. Assem., House Proceedings, Apr. 2, 2019, at 38, *available at* <https://bit.ly/3SYhRGr> (last accessed Oct. 5, 2022).

13. HB3653 arrived in the Senate April 4, 2019. *See* 101st Ill. Gen. Assem., Senate Proceedings, Apr. 4, 2019, at 4, *available at* <https://bit.ly/3V6OvYb> (last accessed Oct. 5, 2022).

14. The first reading of HB 3653 in the Senate occurred on April 12, 2019, where it was referred to the Assignments Committee. 101st Ill. Gen. Assem., Senate J., Apr. 12, 2019, at 13, *available at* <https://bit.ly/3T13b9K> (last accessed Oct. 5, 2022).

15. Subsequently, nearly twenty-one (21) months later on January 10, 2021, HB 3653 was assigned to the Executive Committee, before being re-referred to Assignments Committee. 101st Ill. Gen. Assem., Senate Proceedings, Jan. 10, 2021, at 16, *available at* <https://bit.ly/3SHkyMP> (last accessed Oct. 5, 2022).

16. A second reading occurred in the Senate on January 10, 2021, after which Senator Elgie Sims stated that he wanted the bill moved to a 3rd reading. *Id.* at 33.

17. Senator Sims then filed Senate Floor Amendment No. 1, which totaled six hundred eleven (611) pages. *See* 101st Ill. Gen. Assem., House Bill 3653, Senate Floor Am. No. 1, 2019 Sess., *available at* <https://bit.ly/3SHkPzl> (last accessed Oct. 5, 2022).

18. On or about January 13, 2021, Senator Sims filed Senate Floor Amendment No.2 which increased the bill's size by one hundred fifty-three (153) pages to seven hundred sixty-four (764) pages. *See* 101st Ill. Gen. Assem., House Bill 3653, Senate Floor Am. No. 2, 2019 Sess., *available at* <https://bit.ly/3e7SRh9> (last accessed Oct. 5, 2022).

19. According to the amendment's synopsis, the bill now dealt with various topics such as use of force, redistricting, creation of task forces, and labor relations, among many other topics. *See* Bill Status of HB3653, 101st Ill. Gen. Assem., <https://bit.ly/3eb49kU> (last accessed Oct. 5, 2022).

20. After these voluminous amendments, the bill was again referred to the Assignments Committee and approved for consideration. 101st Ill. Gen. Assem., Senate Proceedings, Jan. 12, 2021, at 79, *available at* <https://bit.ly/3SBko9M> (last accessed Oct. 5, 2022).

21. Before the entire Senate, Senator Sims asked that HB 3653 be returned to 2nd reading status. *Id.* at 85. This was approved without objection. *Id.*

22. Senator Sims then moved to adopt Floor Amendment No. 2. *Id.* Senate President Harmon determined Floor Amendment No. 2 passed on a voice vote. *Id.*

23. Another reading was then held; that reading was referred to as “the 3rd Reading.” *See id.* The title of HB 3653 was then read, and Senate President Harmon announced that only two speakers from each side would speak after Senator Sims spoke. *Id.* at p. 86.

24. Highlighting the sweeping and broad nature of the legislative scheme envisioned in those 764 pages, Senator Sims referred to HB 3653 as a “big, bold, complex transformational agenda.” *Id.*

25. Senator Sims continued:

First, the criminal justice reform: There's reporting of deaths in custody; reforms relative to pregnant prisoner rights; medical treatment; alternatives to custody for those charged with three or four-Class 3 or 4 nonviolent felonies; the end to prison gerrymandering; the end to money bond and the Pretrial Fairness Act; the creation of a domestic violence pretrial working group; the creation and establishment of detainee rights; additional earned program sentencing credits; modernization of our State's mandatory supervised release program. Under violence reduction and victims' services: expanded usage of diversion courts; crime victims compensation. And under police accountability: the State's first expanded certification and decertification process; expanded use of force training; expanded crisis intervention training; the creation of the State-of a co-responder model for the State-for-for State government and policing; data collection; the creation of-of-the expansion and-and clarification of our ban on chokeholds; the creation of a duty to render aid for law-law enforcement officers; the creation of the duty to intervene from law enforcement officers; protection for whistleblowers who-who seek to make sure that the relationship between law enforcement and communities remain sound; increased body camera usage; a discussion on the certification process and decertification process for law enforcement. This is a complete and comprehensive initiative.

*Id.* at 86–87 (cleaned up).

26. Several Senators voiced concerns about the manner in which HB 3653 was moved forward. For example, Senator Steve McClure observed that, “we just got this . . . a very short time ago”, and that he was “trying to ascertain what's in the bill.” *Id.* at 87–88.

27. Senator McClure and Senator Sims had an exchange indicating that it was not entirely clear what was being presented, with Senator McClure stating he had “seen several drafts of this bill and this is now sort of new,” which caused Senator Sims to reply that Senator McClure was referring to another earlier draft of the bill. *See id.* at 87–92.

28. Senator Jason Barickman also noted issues with the process, stating that this bill was pushed forward during a lame-duck session and stated:

Many of our constituents are going to read about legislation that consisted of more than 700 pages that was debated at 4:30 a.m., and they're going to read, watch, and listen to those news reports about this legislation and immediately cast suspicion about what's being done in the eleventh hour of this lame-duck Session, and they're going to be suspicious.

*Id.* at 100.

29. After further comment, President Harmon called for a vote and reported the vote as 32-23 in favor of passing HB 3653. President Harmon then declared HB 3653 as being passed. *Id.* at 107–08.

30. On January 13th, 2021, HB 3653 arrived back in the House. *See* 101st Ill. Gen. Assem., House J., Jan. 13, 2021, at 4, *available at* <https://bit.ly/3EjaPYG> (last accessed Oct. 5, 2022).

31. On the same day, the Rules Committee recommended Senate Amendment No. 2 be adopted and referred the matter to the floor for a full House vote. *Id.* at 6.

32. Also on January 13th, Representative Justin Slaughter spoke in favor of the motion to concur, again highlighting the vast and divergent scope of HB 3653:

In regards to policing, House Bill 3653, Senate Amendment 2, provides a framework **composed of seven critical components.** **First, under crisis intervention and conflict de-escalation,** the Bill establishes a statewide co-responder program, revamped our search warrant policies, and enhances crisis intervention training. **Secondly, under limiting use of force,** this Bill establishes a statewide universalized standard for use of force that identifies and defines what is excessive and prohibited. Under this section, House Bill 3653, Senate Amendment 2, allows... also provides a policy for the duty to intervene and to render aid. And lastly, it enhances use of force training. **The third component is transparency.** Under this section, the Bill creates a statewide body camera program, strengthens requirements for the reporting, collecting, and retention of police data and records. And lastly, it modifies policies pertaining to police officer integrity. **The fourth component, oversight and enforcement.** In this section, the Bill establishes a significantly more robust certification and decertification program for police officers. In regard to strengthening certification. What does this mean? This means better background checks, documenting continuous training completed, and continuous review of disqualifying conduct. This program also calls for expanding decertification, increasing the list of misdemeanors that qualify for automatic decertification, and also creating a discretionary decertification process based on the state's IDFPR model. And third, this also means expanding the officer professional conduct database. This would include notifications to state's attorneys and expanded requirements for departments to notify for concurrent terminations and leaving duties under investigation. Under this component, the Bill also enhances a state level patterns and practice division within the office of Attorney General to investigate police misconduct. **Ladies and Gentlemen, moving on, Fifth component, accountability.** The Bill creates the Qualified Immunity Task Force to develop and propose policies and procedures to review and reform qualified immunity as it applies to peace officers. In regards to collective bargaining, the Bill deletes a provision of the Uniform Peace Officers' Disciplinary Act that allows collective bargaining agreements to override State Law with regard to peace officers. The effect of this change would be to prevent collective bargaining agreements from being used to shield officers from discipline, free misconduct, and use of force violations. Lastly, this section also removes the sworn affidavit requirement for police misconduct complaints. **Sixth component, detainment.** This Bill provides provisions to protect the rights of arrestees and detainees by requiring adequate access to phone calls and counsel when detained. The last component of police reform, **the seventh component, officer wellness.** These provisions establish statewide standards for

officers to receive regular mental health screenings and assistance and also protections from mental illness discoveries. **It's these seven components of our reform framework for policing that's contained in this Bill.**

\* \* \*

**We also took a look at sentencing reform.** The Bill narrows our very broad felony murder rule to bring it in line with the majority of other states. It offers alternatives to custody in that it limits time on mandatory supervised release for lower level felonies. It modifies the definition of habitual criminal to entail and require higher level offenses, HB3653, Senate Amendment 2, offers a provision to provide for more judicial discretion for lower level, non-violent offenses. In regards to resisting arrest, the Bill requires a predicate offense to charge someone with resisting arrest. **Lastly, the Bill establishes an investigation in reporting requirements for death in custody.** In regards to prison practices, this Bill makes the following changes: It provides a provision for enhancing medical treatment practices within IDOC; the Bill ends the practice of prison gerrymandering; it modernizes our sentencing credit program; and lastly, it provides provisions to protect the rights of pregnant prisoners. Also, and most notably, House Bill 3653, Senate Amendment 2, abolishes money bond and codifies the Pretrial Fairness Act, This initiative moves our money bond system from one that is based on an individual's ability or inability to post bond to a more fair system that relies on verified risk assessment tools to determine if an individual is a threat to the community or a concern to not return for their hearing. Lastly and finally, in regards to violence reduction, the Bill improves the victims... the crime victims compensation process and expands the eligibility for diversion court.

See 101st Ill. Gen. Assem., House Proceedings, Jan. 13, 2021, at 4–8, *available at* <https://bit.ly/3fKIkJn> (last accessed Oct. 5, 2022).

33. In the House, there were additional concerns raised about HB 3653. For example, Representative Patrick Windhorst noted that HB 3653 is really “two large criminal justice Bills, one involving certification of police officers, one involving criminal justice reforms that have been merged.” *Id.* at 18–19.

34. Acting Speaker Burke then called for a vote, with a reported vote of 60-50 in favor.

*Id.* at 23. Acting Speaker Burke then declared the bill had passed. *Id.*

35. HB 3653 was sent to Governor Pritzker on February 4, 2021, and signed on February 22, 2021. *See* Bill Status of HB3653, 101st Ill. Gen. Assem., <https://bit.ly/3M8b0bg> (last accessed Oct. 5, 2022).

36. Governor Pritzker signed HB 3653 into law as Public Act 101-652.

37. Public Act 101-652 is seven hundred sixty-four (764) pages, divided into eight (8) substantive articles, one (1) general article, and amends, adds, or repeals two hundred sixty-five (265) statutes. *See* Pub. Act 101-652 (eff. Jul. 1, 2021), available at <https://bit.ly/3CxPaea> (last accessed Oct. 5, 2022).

38. The majority of the Public Act has already taken effect, with the elimination of cash bail effective January 1, 2023, and completion of the multi-year progression toward universal requirement of body cameras scheduled to finishing January 1, 2025. *See id.* at 764.

**COUNT I: DECLARATORY JUDGMENT  
PUBLIC ACT 101-652 VIOLATES THE SINGLE SUBJECT RULE**

39. Plaintiffs reallege and incorporate the allegations in Paragraphs 1-38 above as if fully restated herein.

40. Article IV, Section 8 of the Illinois Constitution provides in pertinent part: "Bills, except bills for appropriations and for the codification, revision or rearrangement of laws, shall be confined to one subject." Ill. Const. 1970, art. IV, § 8.

41. Because the single subject rule is a substantive rather than procedural requirement for the passage of bills, an alleged violation of the rule is subject to judicial review. *Johnson v. Edgar*, 176 Ill. 2d 499, 514 (1997) (*citing, People v. Dunigan*, 165 Ill.2d 235 (1995)).

42. The single subject rule ensures the structured and well-informed debate and passage of bills by "limiting each bill to a single subject, [so] each legislator can better understand and

more intelligently debate the issues presented by a bill.” *People v. Cervantes*, 189 Ill. 2d 80, 83-84 (1999) (citing *People v. Reedy*, 295 Ill. App. 3d 34 (2d Dist. 1999)).

43. The single subject requirement, therefore, “ensures that the legislature addresses the difficult decisions it faces directly and subject to public scrutiny” *Cervantes* 189 Ill.2d at 84 (citing, *Johnson v. Edgar*, 176 Ill.2d 499 (1997)).

44. A public act that violates the single subject rule is not severable; rather, the entire public act is unconstitutional and thus void. *Reedy*, 295 Ill. App. 3d at 42.

45. 735 ILCS 5/2-701 provides a method under Illinois law for declaratory relief.

46. “The essential requirements for asserting a declaratory judgment action are (1) a plaintiff with a legal tangible interest, (2) a defendant with an opposing interest, and (3) an actual controversy between the parties involving those interests.” *Cahokia Unit Sch. Dist. No. 187 v. Pritzker*, 2021 IL 126212 at ¶ 36 (citing *Beahringer v. Page*, 204 Ill.2d 363 (2003)).

47. Absent further action by the General Assembly, the provisions of Public Act 101-652 will remain in effect or continue to take effect, creating an actual controversy between the Parties which would be terminated in whole or in part by a declaratory judgment.

48. Public Act 101-652 is over 750 pages long, addresses 265 separate statutes, and can be categorized as touching, at a minimum, eight (8) clearly distinct and divergent subjects. A non-exclusive list includes:

- a. Pretrial Release Standards;
- b. Various provisions related to police practices;
- c. Elections;
- d. Expanding the Partnership for Deflection and Substance Abuse Disorder Treatment Act to include first responders other than police officers;

- e. Granting the Attorney General increased powers to pursue certain civil actions, some newly created;
- f. Expanded Whistleblower Protection;
- g. Police Decertification Procedures affecting the administrative duties and responsibilities of the Illinois Law Enforcement Training and Standards Board; and,
- h. Creation of a legal “duty to render aid” upon which the offense of Official Misconduct by members of law enforcement could be charged.

49. As a result, Public Act 101-652 violates the single subject rule because its “discordant provisions” cannot “be considered as having any legitimate relation *to each other*.” *Johnson*, 176 Ill.2d at 509, 516 (emphasis added); *See also id.* (holding that the single subject rule requires examination of the extent to which provisions of legislation have a “legitimate relation to each other” rather than to the general topic identified by the legislature.).

50. Under Public Act 101-652, all Illinois State’s Attorneys would be required to undertake not only significant new procedural and substantive responsibilities, but also the duty to identify funding mechanisms necessary to satisfy the substantial unfunded mandates of Public Act 101-652 which directly impact the budgets of numerous county agencies.

51. As topics including, but not limited to, elections, whistleblower protections, police decertification, creation of at least one new criminal offense (duty to render aid – violation of which could involve the offense of Official Misconduct), and the elimination of cash bail do not have a natural and logical connection “**to each other**” as required to satisfy the single subject rule, Public Act 101-652 must be struck down. *Id.*

52. Civil administrative actions reviewing the constitutionality of peace officer's

actions, the abolition of cash bail, whistleblower protections, additional duties of electoral authorities, and the other divergent subjects included in Public Act 101-652 are objectively “discordant provisions that by no fair intendment can be considered as having any logical relation **to each other.**” *Id.* at 516 (emphasis added).

53. Public Act 101-652 imposes significant new obligations on Plaintiffs and their counterparts across the State of Illinois while simultaneously diminishing the constitutional authority of an impartial judiciary with regard to the administration of criminal proceedings and protection of the public from individuals who pose a danger to the community.

54. Plaintiff Wright, as the chief law enforcement officer in Sangamon County, has a tangible interest in the avoidance of danger to the community and ensuring the continued appearance of defendants during the pendency of their criminal cases.

55. Plaintiffs have a tangible interest in the preservation of constitutionally established powers vested in the judiciary by the Illinois Constitution and the avoidance of unlawful legislative re-assignment of such authority from the judicial branch to the executive branch of state government under Public Act 101-652, as written.

56. The State enjoys an interest in expediting the administration of justice. *People v. Phillips*, 242 Ill. 2d 189, 196 (2011); *People v. Abernathy*, 399 Ill. App. 3d 420, 426 (2d Dist. 2010); *People v. Childress*, 276 Ill. App. 3d 402, 410 (1st Dist. 1995).

57. Plaintiffs and their constituents will be irreparably harmed absent injunctive relief because all pending cases and any new cases will be immediately affected by the provisions of Public Act 101-652 which violates the Illinois Constitution for the reasons set forth herein.

58. This interest, and the inherent authority of an impartial judiciary, will be fundamentally harmed by Public Act 101-652’s strict offense-based pretrial detention regime

which eliminates judicial discretion to conduct a comprehensive assessment of danger to the community unrestricted by legislatively imposed limitations detached from the reality of specific circumstances before the court in any given case.

59. The practical effects of Public Act 101-652 render superfluous the constitutional requirements related to pretrial detention and invite future litigation by detained individuals citing violation of Due Process and Equal Protection under the United States and Illinois Constitutions.

60. No adequate remedy at law exists because the unconstitutional effects of Public Act 101-652 cannot be remedied by monetary damages.

61. Plaintiffs have established a fair question as to likelihood of success on the merits of their underlying claims for declaratory relief as the procedural and substantive provisions of Public Act 101-652 related to pretrial detention are unconstitutional and passed in an unconstitutional manner.

62. The balance of hardships weighs heavily in favor of interlocutory injunctive relief to preserve the *status quo* pending final judgment on the merits of Plaintiffs' constitutional claims.

**WHEREFORE**, Plaintiffs pray this Honorable Court declare Public Act 101-652 unconstitutional as violative of the single subject rule, grant preliminary and permanent injunctive relief, and award any other relief the Court deems just and proper.

**COUNT II: DECLARATORY JUDGMENT  
PUBLIC ACT 101-652 VIOLATES ARTICLE I, SECTION 9  
OF THE ILLINOIS CONSTITUTION**

63. Plaintiffs reallege and incorporate the allegations in Paragraphs 1-38 above as if fully restated herein.

64. Article I, Section 9 of the Illinois Constitution provides in relevant part:

“All persons shall be bailable by sufficient sureties, except for the following offenses where the proof is evident or the presumption great: capital offenses; offenses for which a sentence of life

imprisonment may be imposed as a consequence of conviction; and felony offenses for which a sentence of imprisonment, without conditional and revocable release, shall be imposed by law as a consequence of conviction, when the court, after a hearing, determines that release of the offender would pose a real and present threat to the physical safety of any person.”

Ill. Const. 1970, art. I, § 9. (emphasis added).

65. “Bailable”, when referring to an offense or person, means “eligible for bail.”

*Bailable*, Black's Law Dictionary (9th Ed. 2009).<sup>1</sup>

66. “Bail”, in turn, means “[t]o obtain the release of (oneself or another) by providing security for a future appearance in court[.]” *Bail*, Black's Law Dictionary (9th Ed. 2009). The definition for “security” is “[c]ollateral given or pledged . . . .” *Security*, Black's Law Dictionary (9th Ed. 2009).

67. The embodiment of monetary surety in the concept of bail under the plain and ordinary meaning of the Illinois Constitution is further reinforced by in the Crime Victim's Rights portion of the Constitution which specifically states, “[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. 1970, art. I, § 8.1(a)(9). (emphasis added).

68. Therefore, the Constitution makes monetary sureties an unambiguous and necessary feature of “bail” in Illinois not subject to legislative alteration absent a proper constitutional amendment.

69. Under current law in effect until January 1, 2023, even a release on personal recognizance involves an element of financial obligation pledged to ensure the defendant's

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<sup>1</sup> When a term in a constitutional provision is not defined, it is “entirely appropriate to employ a dictionary to ascertain the plain and ordinary meaning of those terms.” *Bd. of Trustees of City of Harvey Firefighters' Pension Fund v. City of Harvey*, 2017 IL App (1st) 153074, ¶ 179.

appearance. 725 ILCS 5/110-2.

70. Offenses which are not “bailable by sufficient sureties” are limited to “...capital offenses; offenses for which a sentence of life imprisonment may be imposed as a consequence of conviction; and felony offenses for which a sentence of imprisonment, without conditional and revocable release shall be imposed by law as a consequence of conviction...” Ill. Const. 1970, art I, §9.

71. "Recognizance means an undertaking without security entered into by a person by which he binds himself to comply with such conditions as are set forth therein and which may provide for the forfeiture of a sum set by the court on failure to comply with the conditions thereof." 725 ILCS 5/102-19; 725 ILCS 5/110-2.

72. Should a defendant be released on personal recognizance and fail to appear, they risk forfeiture of an amount previously set by the court. Thus, the “bailable by sufficient sureties” requirement of the Illinois Constitution includes an element of concrete financial incentive designed to ensure the defendant's appearance at trial.

73. Misdemeanors and felonies subject to probation are categorically “bailable” offenses under the Illinois Constitution, reflecting a fundamental constitutional principle that a defendant entitled to the presumption of innocence must retain a pretrial liberty interest when charged with a probationable offense. Yet under Public Act 101-652, misdemeanors and felonies subject to probation (such as domestic abuse), will become offenses for which pretrial release may be denied in contravention of the plain language of Article I, §9.

74. As of January 1, 2023, Public Act 101-652 abolishes constitutionally mandated monetary surety and forfeiture of same upon failure to abide by conditions of personal recognizance, but only requires that a “defendant may be released on his or her own recognizance

upon signature.” 725 ILCS 5/110-2.

75. Under Public Act 101-652, failure to appear in court does not subject a defendant to forfeiture any monetary surety or immediate issuance of an arrest warrant, but may only require a defendant to appear at a successive court hearing to show cause for their prior failure to appear. 725 ILCS 5/110-3.

76. Under Public Act 101-652, felony defendants are no longer “bailable” in Illinois as they are either released on their signature or held for a limited period of time (90 days) without bail pending trial.

77. As a consequence, Public Act 101-652’s pretrial detention provisions as written cannot be reconciled with the bail provisions of the Illinois Constitution.

78. 735 ILCS 5/2-701 provides a method under Illinois law for declaratory relief.

79. “The essential requirements for asserting a declaratory judgment action are (1) a plaintiff with a legal tangible interest, (2) a defendant with an opposing interest, and (3) an actual controversy between the parties involving those interests.” *Cahokia Unit Sch. Dist. No. 187 v. Pritzker*, 2021 IL 126212 at ¶ 36 (citing *Beahringer v. Page*, 204 Ill.2d 363 (2003)).

80. All Illinois State’s Attorneys are directly impacted by the provisions of Public Act 101-652 because they have a tangible interest in the constitutional bail and bond process for defendants charged by their respective offices.

81. Under the current system, the State’s Attorney’s Office provides information concerning the surrounding circumstances of an alleged crime and a defendant’s criminal history which may be used as a basis for the court’s determination of an appropriate monetary bail. All Illinois State’s Attorneys have a significant role in the process of any requested modification or revocation of a defendant's bail, as well as hearings on the source of funds used to post bond. 725

ILCS 5/110-5; 725 ILCS 5/110-6.

82. Under Public Act 101-652, pretrial release of **all** criminal defendants is presumed without any monetary incentive to ensure their continued presence in court which is a central tenet of the clear and unambiguous monetary “bail” provisions enshrined in the Illinois Constitution.

83. Under Public Act 101-652, an impartial judiciary will be stripped of inherent authority to manage their courtrooms and the fundamental discretion to conduct a comprehensive assessment of potential danger to the community as a result of pretrial release in the context of **all available information**. Instead, the threshold issue will be whether the alleged offense is eligible for detention under the strictly limited offenses enumerated in Section 110-6.1 rather than whether the defendant’s release poses a danger to the community.

84. Further harms caused by implementation of Public Act 101-652 include an unconstitutional increase in the burden of proof for pretrial detention and a tectonic shift of substantial powers from the judiciary to the executive branch of state government through Public Act 101-652’s investiture of authority in State’s Attorneys to control initiation of any pretrial detention process in which any judicial involvement is expressly conditioned upon the prior filing of a verified petition for detention by the prosecutor under Section 110-6.1

85. Under Public Act 101-652, the amended version of 725 ILCS 5/110-6.1 transforms the section from essentially mirroring the contents of Article I, Section 9 of the Illinois Constitution, to a limited list of crimes including many previously “bailable” offenses under the Constitution (such as domestic battery).

86. As of January 1, 2023, upon the filing of a verified petition and satisfaction of the requisite burden of proof, a court may order pretrial detention without bail of individuals charged with constitutionally “bailable” offenses for at least 90 days prior to removal of the presumption

of innocence following conviction.

87. This new version of 725 ILCS 5/110-6.1 also impermissibly and unconstitutionally requires the State to prove, by “clear and convincing” evidence that the person the State is seeking to deny pre-trial release “poses a real and present threat to the safety of a specific, identifiable person or persons.” 725 ILCS 5/110-6.1(d), (e)(2).

88. The Constitution **only** requires that the "offender would pose a real and present threat to the physical safety of **any** person." Ill. Const. 1970, art. I, § 9. (emphasis added).

89. As the bill’s amendments clearly contravene the constitutional right to bail, the Sangamon County criminal justice system will likely be harmed as a result of delays occasioned by criminal defendants challenging the constitutionality of pretrial detention orders under Public Act 101-652.

90. Absent further action by the General Assembly, provisions of Public Act 101-652 will remain in effect or continue to take effect, creating an actual controversy between the Parties which would be terminated in whole or in part by a declaratory judgment.

91. Because accused individuals are no longer “bailable”, the bail provisions of Public Act 101-652 violate Article I, Section 9 of the Illinois Constitution and must be declared void absent proper amendment of Public Act 101-652 or the Constitution itself.

92. Public Act 101-652 imposes significant new obligations on Plaintiffs and their counterparts across the State of Illinois while improperly diminishing the constitutional authority of an impartial judiciary to maintain control of pretrial detention decisions to ensure protection of the public from individuals who pose a danger to the community based upon the totality of the circumstances.

93. All Illinois State's Attorneys are responsible for oversight of criminal prosecutions within their individual jurisdictions.

94. All Illinois State's Attorneys, through the use of the constitutionally mandated monetary bail system, have an interest in ensuring the continued presence of defendants during all criminal proceedings in Sangamon County.

95. Plaintiffs have an interest in the avoidance of improper assumption of control over constitutionally established judicial powers related to pretrial release of criminal defendants.

96. The State enjoys an interest in expediting the administration of justice. *People v. Phillips*, 242 Ill. 2d 189, 196 (2011); *People v. Abernathy*, 399 Ill. App. 3d 420, 426 (2d Dist. 2010); *People v. Childress*, 276 Ill. App. 3d 402, 410 (1st Dist. 1995).

97. Plaintiffs and their constituents will be irreparably harmed because all pending cases and any new cases will be immediately affected by the provisions of Public Act 101-652 which violates the Illinois Constitution for the reasons set forth herein.

98. This interest, and the constitutional authority of an impartial judiciary, will be fundamentally harmed by Public Act 101-652's strictly limited offense-based pretrial detention regime which eliminates judicial discretion to conduct a comprehensive assessment of danger to the community unrestricted by legislatively imposed limitations detached from the reality of specific circumstances before the court in any given case.

99. Absent injunctive relief, Public Act 101-652's fundamental abrogation of constitutional requirements related to "bail" violates the Illinois Constitution and is likely to result in substantial litigation filed by individuals detained without bail citing deprivation of their fundamental rights to Due Process and Equal Protection under the United States and Illinois Constitutions.

100. No adequate remedy at law exists because the unconstitutional effects upon the criminal justice system that will occur on January 1, 2023 cannot be remedied by monetary damages.

101. Plaintiffs have established a fair question as to likelihood of success on the merits of their underlying claims for declaratory relief as the procedural and substantive provisions of Public Act 101-652 related to pretrial detention are unconstitutional and were passed in an unconstitutional manner.

102. The balance of hardships weighs heavily in favor of interlocutory injunctive relief to preserve the *status quo* pending final judgment on the merits of Plaintiffs' constitutional claims.

**WHEREFORE**, Plaintiffs pray this Honorable Court declare Public Act 101-652 unconstitutional in part for violation of the bail provision in Article 1, Section 9 of the Illinois Constitution, grant preliminary and permanent injunctive relief, and award any other relief the Court deems just and proper.

**COUNT III: DECLARATORY JUDGMENT  
PUBLIC ACT 101-652 VIOLATES ARTICLE I, SECTION 8  
OF THE ILLINOIS CONSTITUTION**

103. Plaintiffs reallege and incorporate the allegations in Paragraphs 1-38 above as if fully restated herein.

104. Article I, §8 of the Illinois Constitution provides:

- (a) Crime victims, as defined by law, shall have the following rights:
  - (1) The right to be treated with fairness and respect for their dignity and privacy and to be free from harassment intimidation, and abuse throughout the justice process...
  - (8) The right to be reasonably protected from the accused

throughout the criminal justice process...

- (9) The 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. 1970, art. I, § 8.

105. The enforcement of crime victims' rights enshrined in the Illinois Constitution is an administrative function inherent in the authority of the judiciary.

106. Under 725 ILCS 5/110-2 and 725 ILCS 5/110-6.1 as amended by HB 3653, the courts will be stripped of their Constitutional power to protect the rights of Illinois victims in a broad range of cases as a result of the strict detention eligibility requirements of Public Act 101-652.

107. For all offenses not specifically listed in Section 110-6.1, the court must release the defendant even if the evidence would otherwise result in a finding that no combination of conditions will be sufficient to protect the victim from "harassment or intimidation" or other danger to the community.

108. Under the current pretrial detention system, the State's Attorney's Office provides the court with information concerning the alleged crime and the criminal history of an accused individual which may be used as basis for setting bail and also has a significant role in any requested modification or revocation of bail and hearings on the source of money used to post bond. 725 ILCS 5/110-5; 725 ILCS 5/110-6.

109. The pretrial detention provisions of Public Act 101-652 contravene Article I, §8(a)(10) of the Illinois Constitution because the court cannot consider the safety of the victim or danger to the community in "denying" bail or "determining whether to release the defendant" as

it no longer has such discretion in the case of any offenses not eligible for detention under Section 110-6.1.

110. Under Public Act 101-652, State's Attorneys and Judges are barred from taking steps to protect the safety of victims and the communities within their jurisdiction where an individual is charged with an offense which is not eligible for pretrial detention because it is not listed among the strictly limited detention-eligible offenses dictated by the legislature in Section 110-6.1.

111. Public Act 101-652 also transforms 725 ILCS 5/110-6.1 from essentially mirroring the contents of Article I, Section 8, to referencing multiple crimes previously "bailable" under the Constitution (such as domestic battery) which now, upon the filing of a verified petition and proper showing, would allow for the pretrial detention without "bail" prior to removal of the presumption of innocence after conviction.

112. The provisions of Public Act 101-652 impermissibly and unconstitutionally require prosecutors to prove by "clear and convincing" evidence that the person the State is seeking to deny pre-trial release "poses a real and present threat to the safety of a specific, identifiable person or persons." 725 ILCS 5/110-6.1(d), (e)(2).

113. The Constitution requires the State to establish only that the "offender would pose a real and present threat to the physical safety of **any** person." Ill. Const. 1970, art. I, § 9 (emphasis added).

114. 735 ILCS 5/2-701 provides a method under Illinois law for declaratory relief.

115. "The essential requirements for asserting a declaratory judgment action are (1) a plaintiff with a legal tangible interest, (2) a defendant with an opposing interest, and (3) an actual controversy between the parties involving those interests." *Cahokia Unit Sch. Dist. No. 187 v.*

*Pritzker*, 2021 IL 126212 at ¶ 36 (citing *Beahringer v. Page*, 204 Ill.2d 363 (2003)).

116. Absent further action by the General Assembly, provisions of Public Act 101-652 will remain in effect or continue to take effect, creating an actual controversy between the Parties which would be terminated in whole or in part by a declaratory judgment.

117. Because individuals likely to pose a danger to communities in each of the 102 counties situated within Illinois are automatically “bailable” without hearing absent compliance with the requirements of Public Act 101-652, and those charged with offenses otherwise “bailable” under the Constitution could be detained without bail, the pretrial detention provisions of Public Act 101-652 violate Article I, Section 8 of the Illinois Constitution and must be struck down.

118. Public Act 101-652 imposes significant new obligations on Plaintiffs and their counterparts across the State of Illinois while simultaneously diminishing the constitutional authority of an impartial judiciary with regard to the administration of criminal proceedings and protection of the public from individuals who pose a danger to the community.

119. All Illinois State’s Attorneys, through the use of the monetary bail system enshrined in the Illinois Constitution, have a tangible interest in the continued appearance of all defendants during criminal proceedings to ensure the fair and equal administration of justice on behalf of the People of the State of Illinois.

120. Plaintiffs have a tangible interest in the avoidance of assuming control over constitutionally established judicial powers related to pretrial release of criminal defendants.

121. The State enjoys an interest in expediting the administration of justice. *People v. Phillips*, 242 Ill. 2d 189, 196 (2011); *People v. Abernathy*, 399 Ill. App. 3d 420, 426 (2d Dist. 2010); *People v. Childress*, 276 Ill. App. 3d 402, 410 (1st Dist. 1995).

122. Plaintiffs and their constituents will be irreparably harmed absent the requested

injunctive relief because all pending cases and any new cases will be immediately affected by the provisions of Public Act 101-652 which violate the Illinois Constitution for the reasons set forth herein.

123. This interest, and the inherent authority of an impartial judiciary, will be fundamentally harmed by Public Act 101-652's strict offense-based detention regime which eliminates judicial discretion to conduct a comprehensive assessment of danger to the community unrestricted by legislatively imposed limitations detached from the reality of specific circumstances before the court in any given case.

124. Public Act 101-652's fundamental alteration of constitutional requirements related to pretrial detention contravene the Illinois Constitution and is likely to result in substantial litigation by detained individuals citing violation of Due Process and Equal Protection under the United States and Illinois Constitutions.

125. No adequate remedy at law exists because the unconstitutional effects upon the criminal justice system that will occur on January 1, 2023 cannot be remedied by monetary damages.

126. Plaintiffs have established a fair question as to likelihood of success on the merits as the procedural and substantive provisions of Public Act 101-652 are unconstitutional and were passed in an unconstitutional manner.

127. The balance of hardships weighs heavily in favor of interlocutory injunctive relief to preserve the *status quo* pending final judgment on the merits of Plaintiffs' constitutional claims.

**WHEREFORE**, Plaintiffs pray that this Honorable Court declare Public Act 101-652 unconstitutional in part for violating the bail provision in Article 1, Section 8 of the Illinois Constitution, grant preliminary and permanent injunctive relief, and award any other relief the

Court deems just and proper.

**COUNT IV: DECLARATORY JUDGMENT**  
**PUBLIC ACT 101-652 VIOLATES THE SEPERATION OF POWERS DOCTRINE**

128. Plaintiffs reallege and incorporate the allegations in Paragraphs 1-38 above as if fully restated herein.

129. Under the provisions of Public Act 101-652, all criminal defendants are presumed to be entitled to pretrial release, except in limited offense-based circumstances where individuals may be detained. 725 ILCS 5/110-2.

130. Instead of monetary bail, criminal defendants will only be subject to “conditions” following release upon their signature with no surety. 725 ILCS 5/110-1.5; 110-2.

131. The Separation of Powers clause prohibits one branch of government from exercising or abridging “powers properly belonging to another.” Ill. Const. art. II, § 1; *Lebron v. Gottlieb Mem'l Hosp.*, 237 Ill.2d 217,239 (2010).

132. " ... [T]he legislature is without authority to interfere with “a product of this court's supervisory and administrative responsibility.” *People v. Joseph*, 113 Ill. 2d 36, 45 (1986) (*citing*, *People v. Jackson*, 69 Ill.2d 252 (1977)).

133. “The constitutional right to bail must be qualified by the authority of the courts, as an incident of their power to manage the conduct of proceedings before them, to deny or revoke bail when such action is appropriate to preserve the orderly process of criminal procedure.” *People ex rel. Hemingway v. Elrod*, 60 Ill.2d 74, 79 (1975).

134. The General Assembly may only enact legislation “that complement[s] the authority of the judiciary or that [has] only a peripheral effect on court administration.” *Kunkel v. Walton*, 179 Ill. 2d 519, 528 (1997) (*citing* *People v. Williams*, 124 Ill.2d 300 (1988)).

135. "Consequently, the separation of powers principle is violated when a legislative

enactment unduly encroaches upon the inherent powers of the judiciary, or directly and irreconcilably conflicts with a rule of this court on a matter within the court's authority." *Kunkel v. Walton*, 179 Ill. 2d 519, 528 (1997).

136. The legislature's elimination of the courts' broad authority and inherent discretion to set "bail" has abolished a constitutionally assigned power of the judiciary.

137. Abolition of the Court's constitutional authority to detain any individual unless and until the filing of a verified petition by the State's Attorney has further unlawfully re-assigned a fundamental constitutional responsibility of the judiciary to the executive branch of state government, *i.e.* State's Attorneys.

138. Public Act 101-652's pretrial detention provisions are not incidental to the administration of the courts or merely supplemental to the authority of the courts. Instead, Public Act 101-652 transforms the rights and responsibilities of all involved in the pretrial detention process fundamentally altering the authority of the judiciary in contravention of the Illinois Constitution.

139. Currently, courts have complete discretion to deny bail for "offenses for which a sentence of life imprisonment may be imposed as a consequence of conviction; and felony offenses for which a sentence of imprisonment, without conditional and revocable release, shall be imposed by law as a consequence of conviction, when the court, after a hearing, determines that release of the offender would pose a real and present threat to the physical safety of any person." Ill. Const. art. I §9. Under Public Act 101-652's amendments, the court will have no discretion to detain any individual unless the State's Attorney first files a petition requesting detention or revocation of prior pretrial release.

140. The legislation is an unlawful intrusion into the central powers of the judiciary

transferring such power to the executive branch of state government in violation of the separation of powers doctrine.

141. 735 ILCS 5/2-701 provides a method under Illinois law for declaratory relief.

142. “The essential requirements for asserting a declaratory judgment action are (1) a plaintiff with a legal tangible interest, (2) a defendant with an opposing interest, and (3) an actual controversy between the parties involving those interests.” *Cahokia Unit Sch. Dist. No. 187 v. Pritzker*, 2021 IL 126212 at ¶ 36 (citing *Beahringer v. Page*, 204 Ill.2d 363 (2003)).

143. Plaintiff Wright is directly impacted by the provisions of Public Act 101-652 because, as the elected State's Attorney of Sangamon County, he and his duly appointed Assistant State's Attorneys are actively involved in the bail process for all defendants.

144. Under the current system, the State's Attorney's Office provides information concerning the surrounding circumstances of an alleged crime and a defendant's criminal history which may be used as a basis for the court's determination of an appropriate monetary bail. All Illinois State's Attorneys have a significant role in the process of any requested modification or revocation of a defendant's bail, as well as hearings on the source of funds used to post bond. 725 ILCS 5/110-5; 725 ILCS 5/110-6.

145. Unless the provisions of Public Act 101-652 are enjoined prior to January 1, 2023, all criminal defendants will be presumed to be entitled to release without monetary incentive to ensure their continued presence in court in violation of a central tenet of the “bail” provisions enshrined in the Illinois Constitution.

146. In cases involving Class B and Class C misdemeanors, HB 3653 amends 725 ILCS 5/109 to compel police to release arrestees with a citation unless law enforcement determines that the subject poses an obvious threat to the community or is suffering an obvious physical or mental

health issue that poses a risk to themselves.

147. In arrests for all offenses outside of the plain language of Section 110-6.1, 725 ILCS 5/109 vests law enforcement with unfettered discretion to release an arrestee on a “summons”, the issuance of which is within the exclusive province of the judiciary under Illinois law.

148. In addition, while disclosures to the accused are governed by Illinois Supreme Court Rule 412, the Public Act 101-652 unilaterally sets new guidelines for such disclosures by stating: “Prior to the hearing the State shall tender to the defendant copies of the defendant’s criminal history available, any written or recorded statements, and the substance of any oral statements made by any person, if relied upon by the State in its petition, and any police reports in the State’s Attorney’s possession at the time of the hearing that are required to be disclosed to the defense under Illinois Supreme Court rules.” 725 ILCS 5/110-6.1(f)(1).

149. In setting the new disclosure requirements above, the General Assembly has effectively rewritten Illinois Supreme Court Rule 412.

150. Absent injunctive relief, provisions of Public Act 101-652 will remain in effect or continue to take effect, creating an actual controversy between the Parties.

151. Public Act 101-652 imposes significant new obligations on Plaintiffs and their counterparts across the State of Illinois while simultaneously diminishing the constitutional authority of an impartial judiciary with regard to the administration of criminal proceedings, and protection of the public from individuals who pose a danger to the community.

152. All Illinois State’s Attorneys are responsible for overseeing the prosecution of criminal cases within their individual jurisdictions.

153. All Illinois State’s Attorneys and their constituents, through the use of the monetary bail provisions enshrined in the Illinois Constitution, have an interest in the continued presence of

defendants during criminal proceedings.

154. Plaintiffs have an interest in the avoidance of assuming control over constitutionally established judicial powers related to pretrial release of criminal defendants.

155. The State enjoys an interest in expediting the administration of justice. *People v. Phillips*, 242 Ill. 2d 189, 196 (2011); *People v. Abernathy*, 399 Ill. App. 3d 420, 426 (2d Dist. 2010); *People v. Childress*, 276 Ill. App. 3d 402, 410 (1st Dist. 1995).

156. Plaintiffs and their constituents will be irreparably harmed because all pending cases and any new cases will be immediately affected by the provisions of Public Act 101-652 which violates the Illinois Constitution for the reasons set forth herein.

157. This interest, and the inherent authority of an impartial judiciary, will be fundamentally harmed by Public Act 101-652's strict offense-based detention regime which eliminates judicial discretion to conduct a comprehensive assessment of danger to the community unrestricted by legislatively imposed limitations detached from the reality of specific circumstances before the court in any given case.

158. The fundamental alteration of constitutional requirements related to pretrial detention contravenes the Illinois Constitution and is likely to result in substantial litigation by detained individuals citing violation of Due Process and Equal Protection under the United States and Illinois Constitutions.

159. No adequate remedy at law exists because the unconstitutional effects of the pretrial detention provisions of Public Act 101-652 cannot be remedied by monetary damages.

160. Plaintiffs have established a fair question as to likelihood of success on the merits of their underlying claims for declaratory relief as the procedural and substantive provisions Public Act 101-652 related to pretrial detention are unconstitutional and were passed in an

unconstitutional manner.

161. The balance of hardships weighs heavily in favor of interlocutory injunctive relief to preserve the *status quo* pending final judgment on the merits of Plaintiffs' constitutional claims.

**WHEREFORE**, Plaintiffs pray that this Honorable Court declare Public Act 101-652 unconstitutional in part for violation of the Separation of Powers doctrine with regard to bail, grant preliminary and permanent injunctive relief, and award any other relief the Court deems just and proper.

**COUNT V: DECLARATORY JUDGMENT  
PUBLIC ACT 101-652 DID NOT COMPLY WITH THE THREE READINGS CLAUSE  
OF THE ILLINOIS CONSTITUTION**

162. Plaintiffs reallege and incorporate the allegations in Paragraphs 1-38 above as if fully restated herein.

163. Article IV, Section 8 of the Illinois Constitution provides, in pertinent part, that "a bill shall be read by title on three different days in each house." Ill. Const. 1970, art. IV, § 8(d).

164. The Three Readings rule applies not only to the original bill, but to amendments when they represent a substantial departure from the original bill.

165. "In *Giebelhausen v. Daley*, 407 Ill. 25, 48 (1950), our supreme court held that the "complete substitution of a new bill under the original number, dealing with a subject which was not akin or closely allied to the original bill, and which was not read three times in each House, after it has been so altered, [was a] clear violation of a similar three-readings rule in the 1870 Constitution. *See* Ill. Const. 1870, art. IV, § 13 ("Every bill shall be read at large on three different days, in each house\*\*\*.')." *Doe v. Lyft, Inc.*, 2020 IL App (1st) 191328, ¶ 53 (1st Dist. 2021).

166. As more fully laid out in Paragraphs 9-35, the two amendments made to HB 3653 represented a significant departure from the original seven (7) page bill affecting one statute to a behemoth bill more than one-hundred (100) times the size at seven hundred sixty-four (764) pages

and affecting no less than two hundred sixty-five (265) separate statutes.

167. This constitutes a total substitution of the original HB 3653, which subjects the amendments to the Three Readings rule.

168. Plaintiffs acknowledge that a challenge to legislation under the Three Readings rule may be foreclosed by the Enrolled Bill doctrine, which provides that, once the Speaker of the House and President of the Senate certify that the procedural requirements for passing legislation have been met, there is a conclusive presumption the procedural requirements are satisfied. However, Plaintiffs do not concede that this ends the inquiry and affirmatively assert that the Enrolled Bill doctrine must fall as it cannot be reconciled with Art. IV, Section 8.

169. Continued application of the Enrolled Bill doctrine would allow the General Assembly to subvert this unambiguous constitutional imperative by certifying, with no discernable standards, penalty, or review, that it has complied with Art. IV, Section 8.

170. The Enrolled Bill Doctrine has been subject to significant abuse by the General Assembly, which has not escaped the notice of the Supreme Court. In *Geja's Cafe v. Metro. Pier & Exposition Auth.*, 153 Ill. 2d 239, 260 (1992), the Supreme Court explained that, “[i]f the General Assembly continues its poor record of policing itself, we reserve the right to revisit this issue on another day to decide the continued propriety of ignoring this constitutional violation.” In *Friends of Parks v. Chicago Park Dist.*, 203 Ill. 2d 312, 329 (2003), the Illinois Supreme Court reiterated this concern, citing previous instances where it “noted . . . that the legislature had shown remarkably poor self-discipline in policing itself in regard to the three-readings requirement.”

171. The passage of HB 3653 provides the perfect example of why the courts should revisit the Enrolled Bill doctrine. A simple and likely uncontroversial bill was gutted and replaced by a final product that bore no resemblance to the original material, delivered to Senators at 4:30

in the morning during a lame duck session, read twice in one day at the Senate, and then simply passed in the House.

172. The record of proceedings reflects that not only did Senate Amendment No. 2 only receive two (2) readings in a single day in the Senate, but upon return to the House after Rules Committee approval it received no readings on the amended version and was simply called for a vote on the concurrence.

173. Given the substantial changes made by Senate Amendment No. 1 and 2, the Three Readings Rule required the House to re-read the amended bill three (3) separate times, as the bill in its current form bore no resemblance to the original passed out of the House.

174. Therefore, a Three Readings violation occurred.

175. Given the General Assembly's demonstrated inability to police themselves on the matter, the Enrolled Bill Doctrine must be abrogated in the public interest and in furtherance of the original purpose of the Three Readings clause.

176. 735 ILCS 5/2-701 provides a method under Illinois law for declaratory relief.

177. “The essential requirements for asserting a declaratory judgment action are (1) a plaintiff with a legal tangible interest, (2) a defendant with an opposing interest, and (3) an actual controversy between the parties involving those interests.” *Cahokia Unit Sch. Dist. No. 187 v. Pritzker*, 2021 IL 126212 at ¶ 36 (citing *Behringer v. Page*, 204 Ill.2d 363 (2003)).

178. Under Public Act 101-652, all Illinois State’s Attorneys would be required to undertake not only significant new procedural and substantive responsibilities, but also the duty to identify funding mechanisms necessary to satisfy the substantial unfunded mandates of Public Act 101-652 which directly impact the budgets of numerous county agencies.

179. Plaintiffs will be further adversely impacted under the new bail provisions as laid

out in Counts II, III and IV.

180. Notwithstanding the President of the Senate and Speaker of the House's representation that the procedural requirements for passage of HB 3653 were met, the procedural requirements for passage of HB 3653 were not, in fact, met.

181. Absent injunctive relief, provisions of Public Act 101-652 will remain in effect or continue to take effect, creating an actual controversy between the Parties.

182. Public Act 101-652 imposes significant new obligations on Plaintiffs and their counterparts across the State of Illinois while simultaneously diminishing the constitutional authority of an impartial judiciary with regard to the administration of criminal proceedings, and protection of the public from individuals who pose a danger to the community.

183. Plaintiff Wright, as the chief law enforcement officer in Sangamon County, has a tangible interest in the avoidance of danger to the community and ensuring the continued appearance of defendants during the pendency of their criminal cases.

184. Plaintiffs have a tangible interest in the preservation of constitutionally established powers vested in the judiciary by the Illinois Constitution and the avoidance of unlawful legislative re-assignment of such authority from the judicial branch to the executive branch of state government as the current language of Public Act 101-652 reflects.

185. The State enjoys an interest in expediting the administration of justice. *People v. Phillips*, 242 Ill. 2d 189, 196 (2011); *People v. Abernathy*, 399 Ill. App. 3d 420, 426 (2d Dist. 2010); *People v. Childress*, 276 Ill. App. 3d 402, 410 (1st Dist. 1995).

186. Plaintiffs and their constituents will be irreparably harmed because all pending cases and any new cases will be immediately affected by the provisions of Public Act 101-652 which violates the Illinois Constitution for the reasons set forth herein.

187. This interest, and the inherent authority of an impartial judiciary, will be fundamentally harmed by Public Act 101-652's strict offense-based pretrial detention regime which eliminates judicial discretion to conduct a comprehensive assessment of danger to the community unrestricted by legislatively imposed limitations detached from the reality of specific circumstances before the court in any given case.

188. The practical effects of Public Act 101-652 render superfluous the constitutional requirements related to pretrial detention and invite future litigation by detained individuals citing violation of Due Process and Equal Protection under the United States and Illinois Constitutions.

189. No adequate remedy at law exists because the unconstitutional effects of Public Act 101-652 cannot be remedied by monetary damages.

190. Plaintiffs have established a fair question as to likelihood of success on the merits of their underlying claims for declaratory relief as the procedural and substantive provisions Public Act 101-652 related to pretrial detention are unconstitutional and were passed in an unconstitutional manner.

191. The balance of hardships weighs heavily in favor of interlocutory injunctive relief to preserve the *status quo* pending final judgment on the merits of Plaintiffs' constitutional claims.

**WHEREFORE**, Plaintiffs pray this Honorable Court declare Public Act 101-652 violates the Three Readings rule and is, therefore, unconstitutional; find the Enrolled Bill Doctrine violates the Constitution and should be abrogated; and award any other relief the Court deems just and proper.

**COUNT VI: DECLARATORY JUDGMENT  
PUBLIC ACT 101-652 IS UNCONSTITUTIONALLY VAGUE**

192. Plaintiffs reallege and incorporate the allegations in Paragraphs 1-38 above as if fully restated herein.

193. A statute is unconstitutional if “it is so vague and standardless it leaves the public uncertain as to the conduct it prohibits or leaves judges and jurors free to decide without any legally fixed standards what is prohibited and what is not in each particular case.” *Giaccio v. Pennsylvania*, 382 U.S. 399, 402, 403 (1966); *See also Chicago v Morales*, 527 U.S. 41, 58–60 (1999) (holding a statute unconstitutional because it lacked minimal standards to guide law enforcement officers). Public Act 101-652 is demonstrably vague as outlined herein, for it lacks minimal standards to guide law enforcement officers as to its implementation.

194. Further, Public Act 101-652 must be ruled unconstitutional for vagueness in that “[i]t is established that no one may be required at peril of life, liberty or property to speculate as to the meaning of penal statutes. All are entitled to be informed as what the State commands or forbids.” *Lanzetta v. New Jersey*, 306 U.S. 451, 453 (1932).

195. The provisions of Public Act 101-652 concerning pretrial release, speedy trials and other procedural rules are currently the focus of multiple statewide committees working with the Administrative Office of Illinois Courts and the Illinois Judicial College to determine exactly what is the meaning of these new requirements and how can they be administered consistently.

196. Public Act 101-652 imposes new procedural requirements on peace officers, state's attorneys, and judges without articulating how these requirements may be satisfied.

197. Public Act 101-652 imposes new procedural and substantive requirements on peace officers, state's attorneys, and judges without articulating whether Public Act 101-652's application is to be prospective or retrospective, leading to varied and inconsistent interpretations of the temporal scope of Public Act 101-652 and concerns that individuals currently incarcerated in county jails must be released on January 1, 2023 absent strict compliance with the new offense-based regime under Section 110-6.1.

198. Pursuant to 725 ILCS 5/106D-1(a), "Whenever the appearance in person ... in court is required of anyone held in place of custody or confinement ... the chief judge of the circuit by rule may permit the personal appearance to be made by way two-way audio visual communication including closed circuit in the following proceedings: (1) the initial appearance before a judge on a criminal complaint at which the conditions of pretrial release will be set". Contrast this language to that of 725 ILCS 5/109-1 " ... Whenever a person arrested ... is required to be taken before a judge ... a charge may be filed ... by way of a two-way closed circuit television system except that a hearing to deny pretrial release may not be conducted by way of closed-circuit television." The two provisions of the law are in conflict preventing the Sheriff, the State's Attorney and the Court from determining what procedure is required under the statute.

199. Public Act 101-652 imposes significant new obligations on Plaintiffs and their counterparts across the State of Illinois while simultaneously diminishing the constitutional authority of an impartial judiciary with regard to the administration of criminal proceedings, and protection of the public from individuals who pose a danger to the community.

200. Plaintiff Wright, as the chief law enforcement officer in Sangamon County, has a tangible interest in the avoidance of danger to the community and ensuring the continued appearance of defendants during the pendency of their criminal cases.

201. Plaintiffs have a tangible interest in the preservation of constitutionally established powers vested in the judiciary by the Illinois Constitution and the avoidance of unlawful legislative re-assignment of such authority from the judicial branch to the executive branch of state government as the current language of Public Act 101-652 reflects.

202. The State enjoys an interest in expediting the administration of justice. *People v. Phillips*, 242 Ill. 2d 189, 196 (2011); *People v. Abernathy*, 399 Ill. App. 3d 420, 426 (2d Dist.

2010); *People v. Childress*, 276 Ill. App. 3d 402, 410 (1st Dist. 1995).

203. Plaintiffs and their constituents will be irreparably harmed because all pending cases and any new cases will be immediately affected by the provisions of Public Act 101-652 which violates the Illinois Constitution for the reasons set forth herein.

204. This interest, and the inherent authority of an impartial judiciary, will be fundamentally harmed by Public Act 101-652's strict offense-based pretrial detention regime which eliminates judicial discretion to conduct a comprehensive assessment of danger to the community unrestricted by legislatively imposed limitations detached from the reality of specific circumstances before the court in any given case.

205. The practical effects of Public Act 101-652 render superfluous the constitutional requirements related to pretrial detention and invite future litigation by detained individuals citing violation of Due Process and Equal Protection under the United States and Illinois Constitutions.

206. No adequate remedy at law exists because the unconstitutional effects of Public Act 101-652 cannot be remedied by monetary damages.

207. Plaintiffs have established a fair question as to likelihood of success on the merits of their underlying claims for declaratory relief.

208. The balance of hardships weighs heavily in favor of interlocutory injunctive relief to preserve the *status quo* pending final judgment on the merits of Plaintiffs' constitutional claims.

**WHEREFORE**, Plaintiffs pray that this Honorable Court declare Public Act 101- 652 is void for vagueness and, therefore, unconstitutional and award any other relief the Court deems just and proper.

### **CONCLUSION**

For the reasons stated herein, Plaintiffs respectfully request the following relief as outlined in Counts I-VI:

1. Find Public Act 101-652 violates the single subject rule and thus is unconstitutional
2. Find Public Act 101-652 violates the bail provision in Article 1, Section 9 of the Illinois Constitution and thus is unconstitutional in part;
3. Find Public Act 101-652 violates the bail provision in Article 1, Section 8 of the Illinois Constitution and thus is unconstitutional in part
4. Find Public Act 101-652 violates the Separation of Powers doctrine with regard to bail and thus is unconstitutional in part;
5. Find Public Act 101-652 violates the Three Readings Rule and Enrolled Bill Doctrine and thus is unconstitutional;
6. Find that Public Act 101-652 is void due to vagueness and is therefore unconstitutional;
7. Find Plaintiff is entitled to a preliminary injunction against the provisions of Public Act 101-652 pending the conclusion of this litigation; and
8. Order any other relief the Court deems just and equitable.

Dated: October 5, 2022

Respectfully submitted,  
DAN WRIGHT, Sangamon County State's  
Attorney

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**VERIFICATION**

Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure (735 ILCS 5/1-109), the undersigned certify that the above statements are true to the best of their knowledge and belief.

A handwritten signature in black ink that reads "Jack Campbell". The signature is written in a cursive style with a large initial "J".

---

Jack Campbell, Sangamon County Sheriff

A handwritten signature in blue ink that reads "D.K. Wright". The signature is written in a cursive style with a large initial "D".

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Dan Wright, Sangamon County State's Attorney