Jacqueline M. Lacy
State's Attorney

Office of the
State's Attorney
Vermilion County, Illinois

Rita B. Garman Vermilion County Courthouse
7 North Vermilion Street, Suite 201
Danville, IL 61832

Main (217) 554-7750
Fax (217) 554-7775

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********** PRESS RELEASE**********

As the Chief Legal Officer in Vermilion County, I am compelled to inform those that I have sworn to protect that the proposals set forth in House Bill 3653, now Public Act 101-652 pose a serious threat to public safety, specifically, to victims of and witnesses to violent crimes in our community.

On January 10, 2021, Senator Sims affixed a 604-page amendment to HB 3653 that, in addition to sweeping changes to law enforcement operations, conduct, and use of force, also included the bulk of the bail modification provisions. At 3:00 a.m. on January 13, 2021, HB 3653 was amended again by Senator Sims, becoming 764 pages in length. During the debate in the Senate at approximately 4:30 a.m.

At 5:00 a.m., having had a little more than an hour to read the Bill, HB 3653 was called for a vote in the Senate by the Democratic super-majority and passed. That same morning, HB 3653 was sent to the House, its chief House sponsor was changed to Rep. Slaughter, and assigned to the Rules Committee. It immediately passed out of the Rules Committee and received exactly the 60 votes needed to pass in the House, again, after less than an hour of debate HB 3653 was sent to Governor Pritzker on February 4, 2021, and he signed it on February 22, 2021.

The radical increase in the number of pages from the originally introduced bill to what is now Public Act 101-652 was not the only arresting difference. As evidenced by the synopsis of Senate Floor Amendment Number 2 to the bill, the range of issues covered by Amendment No.2 of HB 3643, also increased from the narrow issue of voter registration for incarcerated individuals to a wide range of issues, including, but not limited to: creation or modifications of at least seventeen (17) acts, task forces, criminal laws, and boards.

In short, this poorly drafted Bill containing ill-conceived directives is an effort to systematically dismantle law enforcement, which in turn would affect the integrity of every investigation, prosecution, and the safety of every citizen of our community. We must stand with the men and women of law enforcement who consistently stand up for us.

Therefore, I have filed a motion for declaratory judgement and injunctive relief in my official capacity as Vermilion County State's Attorney and on behalf of the People of the State of Illinois. As set forth in the attached complaint for Declaratory Judgment I am requesting the Court to find that HB 3653, now Public Act 101-652, violates Article I, section 8.1(a)(9); Article I, section 9; Article II, section 1; and Article IV, section 8(d) of the Illinois Constitution of 1970 and declare the law null and void. I am also requesting a preliminary injunction to prevent the enforcement of any bail provisions in the Public Act 101-652 until the case can be fully litigated.

Honorable Jacqueline M. Lacy, Vermilion County State's Attorney

EFILED
9/27/2022 4:25 PM
Melissa Quick
Clerk of the Circuit Court
Vermilion County, Illinois
MF, Deputy Clerk

IN THE CIRCUIT COURT
FOR THE FIFTH JUDICIAL CIRCUIT
VERMILION COUNTY, DANVILLE, ILLINOIS

JACQUELINE M. LACY, in her official capacity as Vermilion County State's Attorney, and on behalf of the PEOPLE OF THE STATE OF ILLINOIS	)	
Plaintiff,	)	Case No. [redacted]
v.	)	2022MR000045
KWAME RAOUL, in his official capacity as Illinois Attorney General, and Governor J.B. Pritzker, in his official capacity as Governor of the State of Illinois	)	
Defendants.	)	

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

NOW COME Jacqueline M. Lacy, in her official capacity as Vermilion County State's Attorney and for her Complaint for Declaratory Judgment and Injunctive Relief, states as follows:

Facts Relevant to All Causes of Action

1. On February 15, 2019, HB 3653 was filed in the Illinois House of Representatives. As introduced, HB 3653 was seven pages in length and had nothing to do with criminal justice reform. Rather HB 3653 merely required the Illinois Department of Corrections to provide voting information to inmates.[1]

[1] ILLINOIS GENERAL ASSEMBLY, https://www.ilga.gov/legislation/BillStatus.asp?DocNum=3653&GAID=15&DocTypeID=HB&SessionID=108&GA=101, (last visited September 23, 2022).

2. On February 26, 2019, the Coalition to End Money Bond held a rally at the Springfield Capitol Building. The group was joined by Representatives Justin Slaughter and Carol Ammons and Senators Robert Peters and Elgie Sims.[2]

3. On April 3, 2019, HB 3653 was passed by the House and sent to the Senate where it sat undisturbed in the Assignments Committee, the Senate's version of the Rules Committee.[3]

4. In January of 2020, the General Assembly was adjourned due to COVID-19. In March of 2020, the General Assembly suspended all ongoing committee sessions and operations. On May 20, 2020, the Illinois General Assembly reconvened for three days to pass the state budget and a handful of other bills, then adjourned indefinitely.

5. In April of 2020, the Illinois Supreme Court Commission on Pretrial Practices, made up of a diverse group of stakeholders,[4] was formed to "provide guidance and recommendations regarding comprehensive pretrial reform in the Illinois criminal justice system."[5] With respect to eliminating cash bail, the Commission concluded:

> However, as the Commission has observed throughout the course of its work, far too many jurisdictions in Illinois lack an adequate framework

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[2] END MONEY BOND, https://endmoneybond.org/2020/02/26/250-people-from-across-illinois-lobby-and-rally-for-an-end-to-money-bond-and-for-pretrial-justice-reforms/, (last visited September 23, 2022).

[3] *Supra* note 1.

[4] Commission membership included Justice Ann Burke of the Illinois Supreme Court, Senator Elgie Sims, and Judge Timothy Evans.

[5] ILLINOIS SUPREME COURT COMMISSION ON PRETRIAL PRACTICES, FINAL REPORT, (April 2020), *available at* https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/227a0374-1909-4a7b-83e3-c63cdf61476e/Illinois%20Supreme%20Court%20Commission%20on%20Pretrial%20Practices%20Final%20Report%20-%20April%202020.pdf

> to allow for effective evidence-based pretrial decision-making and pretrial supervision... [S]imply eliminating cash bail at the outset, without first implanting meaningful reforms and dedicating adequate resources to allow evidence-based risk assessment and supervision would be premature.[6]

Though the Commission did not recommend eliminating cash bail, it did offer a number of suggested improvements, including allowing officers to issue citations in lieu of arrest for class B and C misdemeanors, permitting denial of bail only in cases involving "violent" offenses, and creating a statewide risk assessment tool.[7]

6. On May 25, 2020, George Floyd was murdered by a police officer in Minnesota. In the wake of that act, a new cynicism and outrage over police and the justice system took hold and outcries for drastic reform measures, such as "defund the police", began to gain traction.

7. In July of 2020, a federal court filing by the U.S. Attorney's Office revealed that an FBI investigation into ComEd for a "years-long bribery scheme" involving jobs, vendor subcontracts, and payments to Mike Madigan's political allies was closing in on Speaker Madigan.[8]

8. On October 6, 2020, the Governor, in a politically astute response to the increasingly subversive mood, set out seven principles in a press release to "guide us on a path of repairing the historic harm caused by our justice system, especially in

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[6] *Id.* at 18.

[7] *Id.*

[8] Brian Cassella, ***Federal** Investigation Draws Closer to Madigan as ComEd Will Pay $200 Million Fine in Alleged Bribery Scheme, Pritzker Says Speaker 'Must Resign' if Allegations True*, CHI. TRIB., July 18, 2020, *available at* https://chicagotribune.com/politics/ct-comed-madigan-investigation-fine-20200717-y6w2gtvqzrcyvafyjny7fjw434-story.html. A July court filing revealed that Madigan and an associate were alleged to have "sought to obtain from Com Ed jobs, vendors subcontracts, and monetary payments associated with those jobs and subcontracts for various associates of Public Official A." *Id.*

Black and Brown communities."[9] The first of these principles was the "end of the cash bail system and limiting pretrial detention to only those who are a threat to public safety."[10] In the press release, the Governor thanked the "Black Caucus and organizations and advocates across the state [that had brought] Illinois to this point."

9. On November 20, 2020, 18 of the 74 Illinois House Democrats announced that they would not back Madigan for speaker at the start of the new legislative session on January 13, 2021, leaving him short of the 60 votes he needed to retain the speakership. These defectors cited the ongoing ComEd investigation and suspicion surrounding Madigan.[11]

10. On December 9, 2020, however, the 22-member Black Caucus struck a deal with Madigan, announcing their support of his speakership. This political maneuver effectively denied any other democrat from securing the 60 votes they would need to oust Madigan and bought Madigan time to force further negotiations.[12] In a statement, the Black Caucus stated, "[a]fter analysis, we believe our caucus is in a more advantageous position under the leadership of Speaker Madigan to deliver on our priorities."[13]

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[9] PRESS RELEASE GOVERNOR PRITZKER, GOV.PRITZKER PROPOSES PRINCIPLES TO BUILD A MORE EQUITABLE CRIMINAL JUSTICE SYSTEM, *available at* https://www.iml.org/file.cfm?key=19997.

[10] *Id.*

[11] *18 Illinois House Democrats Say They Won't Back Madigan for Speaker*, NBC CHICAGO, November 20, 2020, *available at* https://www.nbcchicago.com/news/local/chicago-politics/18-illinois-house-democrats-say-they-wont-back-madigan-for-speaker/2376880/.

[12] *Illinois House Black Caucus Backs Madigan*, NBC CHICAGO, December 10, 2020, *available at* https://www.nbcchicago.com/news/local/chicago-politics/illinois-house-black-caucus-backs-madigan-for-speaker/2391517/.

[13] *Id.*

11. On December 30, 2020, Madigan and Illinois Senate leaders informed legislators that they intended to hold a lame-duck session that would last from January 8 through January 13, 2021, making it the first time since May the legislature would convene.[14] As reported, legislators were not informed of the legislative proposals they would be considering.[15] Three days prior to the start of the lame-duck session, Rep. Tim Butler, R-Springfield, assessed:

> House Speaker Mike Madigan is keeping things pretty close to the vest. We are just a few days out and we don't know. I had members of the majority party, Democrats, calling me to see what I had heard about session. They thought I might know because I represent Springfield. That's pretty telling when members of the party in control don't have a clue.

12. On January 10, 2021, Senator Sims affixed a 604-page amendment to HB 3653 that, in addition to sweeping changes to law enforcement operations, conduct, and use of force, also included the bulk of the bail modification provisions.[16] At 3:00 a.m. on January 13, 2021, HB 3653 was amended again by Senator Sims, becoming 764 pages in length.[17]

13. During the debate in the Senate at approximately 4:30 a.m., it became clear that Senator Sims, the chief sponsor, did not himself have sufficient time to

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[14] Dean Olsen, *Illinois House Schedules 'Lame Duck' Session for Jan. 8-13; Senate May Do the Same*, STATE JOURNAL-REGISTER, December 30, 2020 https://www.sj-r.com/story/news/2020/12/30/illinois-house-plans-lame-duck-session-jan-8-senate-may-do-same/4093974001/.

[15] Scott Reader, *Commentary: Legislative Leaders' Silence on Silence on Lame-Duck Session Leaves Most in the Dark*, STATE JOURNAL-REGISTER, *available at* https://www.sj-r.com/story/opinion/2021/01/05/illinois-lame-duck-legislative-session-shrouded-mystery/4138674001/.

[16] S.B. 3653, 101th Gen. Assemb. (IL 2021) (amendment proposed January 10, 2021), *available at* https://www.ilga.gov/legislation/101/HB/10100HB3653sam001.htm.

[17] S.B. 3653, 101th Gen. Assemb. (IL 2021) (amendment proposed January 13, 2021), *available at* https://www.ilga.gov/legislation/101/HB/10100HB3653sam002.htm.

apprehend the particulars of his own bill, specifically the types of offenses that were and were not eligible for pretrial detention. He and Senator McClure engaged in the following colloquy:

> **Senator McClure:** Thank you, Mr. President. Senator Sims, we just got this, as you know, a very short time ago, so I am literally still going through this as we are speaking. So some of the questions are really not gotcha questions. I am really trying to ascertain what's in the bill. The first question as I'm going through this is looking at now the number of crimes where a person cannot be held on any bail, they'd have to be released-an – and correct if I'm wrong on any of these: residential burglary, witness intimidation, animal cruelty, animal torture, financial exploitation of elderly, aggravated battery to a child, robbery, aggravated battery to a senior citizen.
> **Senator Sims:** So, Senator McClure, under those provisions that you're talking about, those are – those are elements and crimes that a judge would look at when – in the – in denial of pretrial release. So I think you have that backwards. The judge looks at it. So under the Pretrial Fairness Act, which is a portion of this bill, the judge looks at the totality of the circumstances, and those are crimes that a judge would look at and would – would pay heightened – heightened attention to in – in making those determinations of the whether or not release would be granted.[18]

14. At 5:00 a.m., having had a little more than an hour to read the Bill, HB 3653 was called for a vote in the Senate by the Democratic super-majority and passed.[19]

15. That same morning, HB 3653 was sent to the House, its chief House sponsor was changed to Rep. Slaughter, and assigned to the Rules Committee.[20] It

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[18] 101th Gen. Assemb., 98th Leg. Day. 88-89 (Jan. 12, 2021), https://www.ilga.gov/Senate/transcripts/Strans101/10100098.pdf
[19] ILLINOIS GENERAL ASSEMBLY, https://www.ilga.gov/legislation/BillStatus.asp?DocNum=3653&GAID=15&DocTypeID=HB&SessionID=108&GA=101
[20] *Id.*

immediately passed out of the Rules Committee and received exactly the 60 votes needed to pass in the House, again, after less than an hour of debate.[21]

16. HB 3653 was sent to Governor Pritzker on February 4, 2021, and he signed it on February 22, 2021.

17. Therefore, HB 3653 became Public Act 101-652.

18. The majority of Public Act 101-652 has already taken effect, with the abolishment of cash bail and broad changes to provisions concerning pre-trial release becoming effective January 1, 2023, and the phased adaptation of body cameras finishing on January 1, 2025.

Parties

19. Plaintiff Lacy is the elected State's Attorney of Vermilion County, both a Constitutional and a statutory officer.

20. Among Plaintiff Lacy's powers and duties is the authority to prosecute all civil and criminal actions within her county in which the People or the County are interested, to prosecute felony and misdemeanor charges, as well as to inquire as to the source of any bond money posted by an individual with criminal charges, and to seek increase in the bond amount or changes in conditions. 55 ILCS 5/3-9005; 725 ILCS 5/110-5(b-5); 725 ILCS 5/110-6(a).

21. Plaintiff Lacy has internal control over the operations of her office. 55 ILCS 5/3-9006.

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[21] Raymon Troncoso, *Lame Duck Look Back: How the Black Caucus Passed Criminal Justice Reform*, CAPITAL NEWS, January 21, 2021, *available at* https://www.capitolnewsillinois.com/NEWS/lame-duck-look-back-how-the-black-caucus-passed-criminal-justice-reform.

22. Defendant Raoul, as the Attorney General, must be notified of any challenge to the constitutionality of a state statute, so that he can defend the statute. S.Ct. Rule 19(a).

23. Defendant Raoul also possesses significant new powers under the Public Act, such as the ability to conduct pattern and practice investigations of law enforcement officers, including those investigators employed by Plaintiff Lacy. 15 ILCS 205/10; 55 ILCS 5/3-9005.

24. On February 22, 2021, Defendant Pritzker signed HB 3653 into law as Public Act 101-652.

25. "The Governor shall have the supreme executive power, and shall be responsible for the faithful execution of the laws." Ill. Const. art. V, § 8.

Article I. Sec. 8.1(a)(9) IL Constitution, Crime Victim's Rights

26. Plaintiff reincorporates and re-alleges paragraphs 1 through 25 as if fully set forth herein.

27. The rights of a crime victim were codified in an amendment to the Illinois Constitution of 1970 on November 4, 2014. Section 8.1(a)(9) provides that "[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).

28. Therefore, the Constitution makes monetary sureties an unambiguous feature of bail in Illinois.

29. As the law stands before the new provisions take effect on January 1, 2023, even a release on personal recognizance involves an element of financial obligation being pledged to ensure the defendant's appearance. 725 ILCS 5/110-2.

30. "Recognizance means an undertaking without security entered into by 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.

31. Should a defendant be released on personal recognizance and fail to appear, her or she risks the forfeiture of an amount previously set by the court.

32. Therefore, the bailable requirement of the Illinois Constitution contains an element of concrete financial incentives sufficient to ensure the defendant's appearance at trial.

33. The provisions of Public Act 101-652 violate this principle because individuals are either released without any bail or personal recognizance bond, and instead are presumed to be released on a promise to appear and to be subject to minimal pretrial conditions. 725 ILCS 5/110-1.5; 110-2.

34. Notably, the law no longer requires that a sum be set that may be forfeited upon failure to abide by conditions of personal recognizance, but only that a "defendant may be released on his or her own recognizance upon signature." 725 ILCS 5/110-2.

35. Should the defendant fail to appear for a scheduled court appearance, he or she does not forfeit any money, rather he or she is subject to a hearing regarding

the reasons behind their failure to abide by the conditions of pretrial release. 725 ILCS 5/110-3.

36. As such, defendants are no longer bailable in Illinois as there are either released on their signature or held for a limited period of time (90 days) without bail pending trial.

37. This is a violation of the bail provisions in the Illinois Constitution.

38. Public Act 101-652 further violates the Illinois Constitution by contravening the plain language of Section 8.1(a)(9), which guarantees a victim and the victim's family the constitutional right to have their safety 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).

39. "The best guide to interpreting the Illinois Constitution is the document's own plain language." *People v. Purcell*, 201 Ill. 2d 542, 549, 778 N.E.2d 695, 699 (2002). "Interpretation of a constitutional provision begins with the language of the provision." *People v. Purcell*, 201 Ill. 2d 542, 549, 778 N.E.2d 695, 699 (2002).

40. A plain reading of Article I, section 8.1(a)(9) 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, and that victims and their families have a protected right to have their safety considered in addressing those features. The effort at abolishing cash bail and side-stepping the authority of the courts to deny pretrial release for the offenses set out in Article I, section 9 of the Illinois Constitution with simple legislation, passed in the wee hours of the morning during a lame-duck

session, is an attempt by the legislators to do an end-run around the Constitution. Any elimination of bail or removal of discretion of the courts to deny pretrial release would be in contravention of Article I, section 8.1(a)(9), would violate the rights of victims and their families, and would require an amendment to the Constitution; not merely the passage of a bill like HB 3653.

Article I, Sec. 9 IL Constitution

41. Plaintiff reincorporates and re-alleges paragraphs 1 through 40 as if fully set forth herein.

42. Public Act 101-652 violates the Illinois Constitution by contravening the plain language of Article I, section 9. Article I, section 9 provides that

> 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.

43. "The best guide to interpreting the Illinois Constitution is the document's own plain language." *People v. Purcell*, 201 Ill. 2d 542, 549, 778 N.E.2d 695, 699 (2002). "Interpretation of a constitutional provision begins with the language of the provision." *People v. Purcell*, 201 Ill. 2d 542, 549, 778 N.E.2d 695, 699 (2002).

44. Looking to the plain language of Article I, section 9, our supreme court has found that "[t]he constitution states expressly that bail may be denied if the accused is charged with a capital offense or an offense for which a sentence of life

imprisonment may be imposed and where the proof is evident or the presumption great." *People v. Purcell*, 201 Ill. 2d 542, 544, 778 N.E.2d 695, 697 (2002). The 7th Circuit has held that "the rule of Art. I, § 9 of the Illinois Constitution . . . guarantees bail *except* in cases of serious offenses where *a court* determines that there is a risk to public safety." *Payton v. County of Carroll*, 473 F.3d 845, 847 (7th Cir. 2007). (Emphasis added.)

45. As with Article I, section 8.1(a)(9), a plain reading of Article I, section 9 indicates an intention by the drafters of the Constitution that bail be part of the criminal justice process. Again, the effort at abolishing cash bail and side-stepping the authority of the courts to deny pretrial release for the offenses set out in Article I, section 9, with simple legislation is an attempt by the legislators to do an end-run around the Constitution. Any elimination of bail or removal of discretion of the courts to deny pretrial release would require an amendment to the Constitution; not merely the passage of a bill like HB 3653.

46. Section 110-4 of the Code of Criminal Procedure, regarding bailable offenses, incorporated the above-quoted constitutional provisions. (Ill. Rev. Stat. 1971, ch. 38, par. 110 – 4, now 725 ILCS 5/110-4.) "Section 110-4 is a codification of article I, section 9, and provides courts with additional guidance for the execution of bail proceedings" ... "Section 110-4(b) goes beyond the language of article I, section 9, and was added to clarify issues of proof arising during bail proceedings." *People v. Purcell*, 201 Ill. 2d 542, 547-48, 778 N.E.2d 695, 698-99 (2002). While the legislature may amend various statutes, including Section 110-4, it must follow the prescribed

processes set forth in Article XIV of the Illinois Constitution to seek a constitutional revision or amendment. Illinois Const., Art. XIV, § 1-2. The legislature has not done so in this instance.

47. The supreme court has invalidated statutory provisions which are contrary to the provisions of Article I, section 9. For example, in *People ex rel. Hemingway v. Elrod*, 60 Ill. 2d 74, 79, 322 N.E.2d 837, 840 (1975)), the Court held that the authority to set, deny, or revoke bail, is inherently within the purview of the courts. Specifically, the Court declared that:

> [t]he 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. This action must not be based on mere suspicion but must be supported by sufficient evidence to show that it is required. Thus keeping an accused in custody pending trial to prevent interference with witnesses or jurors or to prevent the fulfillment of threats has been approved. *We think that under both the United States and Illinois constitutions the denial of bail to an accused under such circumstances is within the inherent power of the court. Also, if a court is satisfied by the proof that an accused will not appear for trial regardless of the amount or conditions of bail, bail may properly be denied."*

People ex rel. Hemingway v. Elrod (1975), 60 Ill. 2d 74, 79, 322 N.E.2d 837, 840 (emphasis added). In its concluding comments of the *Hemingway* opinion, the Court, in no uncertain terms, articulated that, "[t]he court has the inherent authority to enforce its orders and to require reasonable conduct from those over whom it has jurisdiction." *People ex rel. Hemingway v. Elrod*, 60 Ill. 2d 74, 83, 322 N.E.2d 837, 842 (1975).

Separation of Powers Violation

48. Plaintiff reincorporates and re-alleges paragraphs 1 through 47 as if fully set forth herein.

49. HB 3653, now Public Act 101-652, violates Article II of the Illinois Constitution of 1970. Article II, section 1 provides that "[t]he legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another." Illinois Const., Art. II, § 1.

50. Under our constitution, the power to set, deny, or revoke bail is delegated to the courts. Article I, section 9 provides that:

> 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. As discussed above, the supreme court has held that:

> 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. This action must not be based on mere suspicion but must be supported by sufficient evidence to show that it is required. Thus keeping an accused in custody pending trial to prevent interference with witnesses or jurors or to prevent the fulfillment of threats has been approved. *We think that under both the United States and Illinois constitutions the denial of bail to an accused under such circumstances is within the inherent power of the court. Also, if a court is satisfied by the proof that an accused will not appear for trial regardless of the amount or conditions of bail, bail may properly be denied."*

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Single Subject Rule

51. Plaintiff reincorporates and re-alleges paragraphs 1 through 50 as if fully set forth herein.

52. Public Act 101-652 violates the Single Subject Rule. Article IV, section 8(d), of the Illinois Constitution of 1970 provides that "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(d). The supreme court has held that "the single-subject rule is a substantive, rather than a procedural, requirement for the passage of bills...." *People v. Dunigan*, 165 Ill. 2d 235, 254, 650 N.E.2d 1026, 1035 (1995). A violation of the Single Subject Rule results in the entire bill being found unconstitutional. As the Court in *People v. Olender* held, in pertinent part,

> '[A] challenge that an act violates the single subject rule is, by definition, directed at the act in its entirety' . . . In fact, a single subject challenge does not address the substantive constitutionality of the act's provisions at all. Rather, a single subject challenge goes to the very structure of the act, and the process by which it was enacted . . . Allowing for severability with regard to single subject violations would be contrary the purposes behind the single subject rule. This court previously has noted the

'seriousness with which this court regards single subject clause violations.'

People v. Olender, 222 Ill. 2d 123, 145-46, 854 N.E.2d 593, 607 (2005).

53. With regard to the term "subject," our supreme court has clarified that "'subject,' in this context, is to be liberally construed and the subject may be as broad as the legislature chooses." *Johnson v. Edgar*, 176 Ill. 2d 499, 516, 680 N.E.2d 1372, 1380 (1997) (citing *People v. Dunigan*, 165 Ill. 2d 235, 254, 209 Ill. Dec. 53, 650 N.E.2d 1026 (1995)). The court expounded on this rule, stating that "[n]onetheless, the matters included in the enactment must have a natural and logical connection," *id.* (citing *Cutinello v. Whitley*, 161 Ill. 2d 409, 423-24, 204 Ill. Dec. 136, 641 N.E.2d 360 (1994)), and that "[t]he rule prohibits the inclusion of 'discordant provisions that by no fair intendment can be considered as having any legitimate relation to each other.'" *Id.* (citing *People ex rel. Ogilvie v. Lewis*, 49 Ill. 2d 476, 487, 274 N.E.2d 87 (1971)).

54. The principles supporting the Single Subject Rule are both in the interest of transparency in the democratic process, and the "facilitate[ion of] orderly legislative procedure." *Johnson v. Edgar*, 176 Ill. 2d 499, 514, 680 N.E.2d 1372, 1379 (1997). "In sum, the single subject rule ensures that the legislature addresses the difficult decisions it faces directly and subject to public scrutiny, rather than passing unpopular measures on the backs of popular ones." *Johnson v. Edgar*, 176 Ill. 2d 499, 515, 680 N.E.2d 1372, 1379 (1997). The legislative history of Public Act 101-652, as detailed in above paragraphs 1 through 15, demonstrates how these principles of transparency and order in the legislative procedure were disregarded in the rush to pass HB 3653.

55. The facts in *Johnson v. Edgar* are analogous to those in this case. In *Johnson*, the court analyzed whether a public act violated the Single Subject Rule. The court observed that:

> Public Act 89-428 was introduced as Senate Bill 721 on March 2, 1995 . . . . The bill was eight pages long and addressed only this specific topic . . . . When Senate Bill 721 reached the House of Representatives, amendments four through sixteen were placed on the bill. These amendments addressed an array of different subjects . . . . What had started out as an eight-page bill became a bill of over 200 pages . . . . The bill encompassed a multitude of subject matters, contained in six articles.

Johnson v. Edgar, 176 Ill. 2d 499, 502-03, 680 N.E.2d 1372, 1374 (1997). As to the diversity of the subjects addressed in Senate Bill 721 after amendments four through sixteen were placed on the bill, the court noted:

> Here, 'An Act in relation to prisoner's reimbursement to the Department of Corrections for the expenses incurred by their incarceration' became a bill which created a law providing for the community notification of child sex offenders, created a law imposing fees on the sale of fuel, and enhanced the felony classifications for the possession and delivery of cannabis. This bill also created an exemption from prosecution for eavesdropping applicable to employers who wish to monitor their employees' conversations, amended the law to allow the prosecution of juveniles as adults in certain cases, and created the new crime of predatory criminal sexual assault of a child. This bill further changed the law governing the timing of parole hearings for prison inmates, changed the law governing when a defendant who is receiving psychotropic drugs is entitled to a fitness hearing, and added a provision to the law governing child hearsay statements. Finally, Public Act 89-428 addressed the subject of prisoners' reimbursement to the Department of Corrections for the expenses of their incarceration. In sum, Public Act 89-428 amended a multitude of provisions in over 20 different acts, and created several new laws.

Johnson v. Edgar, 176 Ill. 2d 499, 516-17, 680 N.E.2d 1372, 1380 (1997).

The court held that Public Act 89-428 violated the Single Subject Rule. In explaining its rationale, the court stated:

> Public Act 89-428 began its legislative life as an eight-page bill addressing the narrow subject of reimbursement by prisoners to the Department of Corrections for the expense of incarceration. As enacted on December 13, 1995, however, Public Act 89-428 had experienced an extraordinary growth, from 8 pages to over 200 pages . . . In sum, Public Act 89-428 amended a multitude of provisions in over 20 different acts, and created several new laws.

Johnson v. Edgar, 176 Ill. 2d 499, 516-17, 680 N.E.2d 1372, 1380 (1997). Therefore, the court found that, "[b]y no fair intendment may the many discordant provisions in Public Act 89-428 be considered to possess a natural and logical connection." *Johnson v. Edgar*, 176 Ill. 2d 499, 517, 680 N.E.2d 1372, 1380 (1997).

56. The defendants in *Johnson* argued that because the Act pertained to the "single subject of public safety," it should be upheld as not violative of the Single Subject Rule. *Johnson v. Edgar*, 176 Ill. 2d 499, 517, 680 N.E.2d 1372, 1380 (1997). The court was not persuaded. "Were we to conclude that the many obviously discordant provisions contained in Public Act 89-428 are nonetheless related because of a tortured connection to a vague notion of public safety, we would be essentially eliminating the single subject rule as a meaningful constitutional check on the legislature's actions." *Johnson v. Edgar*, 176 Ill. 2d 499, 517-18, 680 N.E.2d 1372, 1381 (1997).

57. In this case, Public Act 101-652 was introduced as HB 3653, a seven-page bill addressing the narrow subject of voter registration for incarcerated individuals.[22] At the time of its introduction, the synopsis for HB 3653 was as follows:

> "730 ILCS 5/3-14-1 from Ch. 38, par. 1003-14-1
> Amends the Unified Code of Corrections. Provides that 45 days prior to the scheduled discharge of a person committed to the custody of the Department of Corrections, the Department shall give the person: (1) information about voter registration and may distribute information prepared by the State Board of Elections and may enter into an interagency contract with the State Board of Elections to participate in the automatic voter registration program and be a designated automatic voter registration agency under the Election Code; and (2) information about registering to vote upon discharge from the correctional institution or facility if the person upon discharge would be homeless. Defines "homeless"."[23]

58. As enacted on January 22, 2021, Public Act 101-652 had grown astonishingly, from 7 pages to 764 pages. As the court in *Johnson* noted, "While the length of the bill is not determinative of its compliance with the single subject rule, the variety of its contents certainly is." ***Johnson*** *v.* ***Edgar***, 176 Ill. 2d 499, 516, 680 N.E.2d 1372, 1380 (1997).

59. The radical increase in the number of pages from the originally introduced bill to what is now Public Act 101-652 was not the only arresting difference. As evidenced by the synopsis of Senate Floor Amendment Number 2 to the bill, the range of issues covered by Amendment No.2 of HB 3643, now Public Act 101-

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[22] ILLINOIS GENERAL ASSEMBLY, https://www.ilga.gov/legislation/fulltext.asp?DocName=10100HB3653&GA=101&SessionId=108&DocTypeId=HB&LegID=120371&DocNum=3653&GAID=15&SpecSess=&Session=, (last visited September 23, 2022).

[23] ILLINOIS GENERAL ASSEMBLY., *available at* https://www.ilga.gov/legislation/fulltext.asp?DocName=10100HB3653&GA=101&SessionId=108&DocTypeId=HB&LegID=120371&DocNum=3653&GAID=15&SpecSess=&Session=

652, also increased from the narrow issue of voter registration for incarcerated individuals to a wide range of issues, including, but not limited to: (i) creation of the Statewide Use of Force Standardization Act to standardize the use of force in law enforcement; (ii) creation of the No Representation Without Population Act which concerns redistricting; (iii) creation of the Reporting of Deaths in Custody Act; (iv) creation of the Task Force on Constitutional Rights and Remedies Act; (v) amendment to the Illinois Public Labor Relations Act as concerns collective bargaining agreements between peace officers and their employers; (vi) amendment to the Criminal Code of 2012 regarding officer-worn body cameras and misrepresentations by officers of facts in police reports or during investigations regarding the officer's conduct; (vii) amendment to the Code of Criminal Procedure of 1963 to include the abolition of cash bail, provisions concerning pretrial release, and amendments to a multitude of Acts referring to the amended provisions of the Code of Criminal Procedure of 1963; (viii) amendments to the Unified Code of Corrections changing the terms for mandatory supervised release; (ix) amendments to the Open Meetings Act regarding deliberations for decisions of the Illinois State Police Merit Board, the Illinois Law Enforcement Training Standards Board and the Certification Review Panel; (x) amendments to the Freedom of Information Act regarding the disclosure of information as related to the Illinois Police Training Act; (xi) amendments to State Employee Indemnification Act to include a definition of "employee"; (xii) amendment to the State Police Act concerning discipline of Illinois State Police officers and the appointment of the Illinois State Police Merit Board;

(xiii) amendment to the Illinois Police Training Act, changing, among other things, the misdemeanor offenses for which a law enforcement officer may be decertified; and, (xiv) creation of the Illinois Law Enforcement Certification Review Panel to make recommendations on the decertification of law enforcement officers.[24]

60. With its 99 articles, encompassing 205 amended statutes and 45 new statutes affecting the wide-ranging and discordant provisions discussed above, the provisions of Public Act 101-652 can "by no fair intendment . . . be considered to possess a natural and logical connection" to one another. *Johnson v. Edgar*, 176 Ill. 2d 499, 517, 680 N.E.2d 1372, 1380 (1997). Therefore, Public Act 101-652 violates the Single Subject Rule in violation of Article IV, section 8(d), of the Illinois Constitution of 1970.

COUNT I
Declaratory Judgment

61. Plaintiff reincorporates and re-alleges paragraphs 1 through 60 as if fully set forth herein.

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

63. That "[t]he 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

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[24] ILLINOIS GENRAL ASSEMBLY, *available at* https://www.ilga.gov/legislation/BillStatus.asp?DocNum=3653&GAID=15&DocTypeID=HB&SessionID=108&GA=101

interests." *Cahokia Unit Sch. Dist. No. 187 v. Pritzker*, 2021 IL 126212, ¶ 36, 184 N.E.3d 233, 243 (citing *Beahringer v. Page*, 204 Ill.2d 363 (2003)).

64. The Crime Victims' Rights provisions of Article I, section 8.1(a)(9) provides, that "[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).

65. Public Act 101-652 violates the Crime Victims' Rights provisions of the Illinois Constitution.

Article I, section 9 of the Illinois Constitution provides that

> 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.

66. Public Act 101-652 violates Article I, section 9 of the Illinois Constitution.

67. Article II, section 1 provides for the separation of powers, and states that "[t]he legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another." Illinois Const., Art. II, § 1.

68. Public Act 101-652 violates Article II, section 1 of the Illinois Constitution.

69. Article IV, section 8(d), of the Illinois Constitution of 1970 provides that "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(d).

70. Public Act 101-652 violates Article IV, section 8(d) of the Illinois Constitution.

WHEREFORE, Plaintiff requests declaratory judgment in her favor finding that HB 3653, now Public Act 101-652, violates Article I, section 8.1(a)(9); Article I, section 9; Article II, section 1; and Article IV, section 8(d) of the Illinois Constitution of 1970 and declare the law null and void.

COUNT II
Injunction

71. Plaintiff realleges and incorporates the allegations in paragraphs 1 through 70 as if fully set forth herein.

72. A party seeking a preliminary injunction must show "(1) a clearly ascertained right in need of protection; (2) irreparable injury in the absence of an injunction; (3) no adequate remedy at law; and (4) a likelihood of success on the merits of the case." *Mohanty v. St. John Heart Clinic, S.C.*, 225 Ill. 2d 52, 62, 866 N.E.2d 85, 91 (2006).

73. Public Act 101-652 imposes significant new obligations on Plaintiff, while at the same time fundamentally altering the criminal justice system in Illinois, especially with regard to the elimination of cash bail.

74. Plaintiff Lacy is the chief law enforcement officer of Vermilion County and is tasked with overseeing the criminal prosecution process therein. *People v. Bauer*, 402 Ill. App. 3d 1149, 1155, 931 N.E.2d 1283, 1289 (5th Dist. 2010); *Ware v. Carey*, 75 Ill. App. 3d 906, 916, 394 N.E.2d 690, 696 (1st Dist. 1979).

75. Plaintiff Lacy, through the use of the monetary bail system, has an interest in ensuring the continued presence of defendants during criminal proceedings brought in Vermilion County.

76. Furthermore, the People enjoy an interest in expediting the administration of justice. *People v. Phillips*, 242 Ill. 2d 189, 196, 950 N.E.2d 1126, 1131 (2011); *People v. Abernathy*, 399 Ill. App. 3d 420, 426, 926 N.E.2d 435, 441 (2d Dist. 2010); *People v. Childress*, 276 Ill. App. 3d 402, 410, 657 N.E.2d 1180, 1186 (1st Dist. 1995).

77. Additionally, should the bail provisions of Public Act 101-652 take effect on January 1, 2023, Plaintiff Lacy will be irreparably harmed because all pending cases and any new cases will be immediately affected by the provisions of that Act.

78. This interest will be fundamentally harmed by the inability to ensure a defendant's presence through monetary obligation.

79. This inability to secure the presence of defendants will unquestionably lead to significant will unquestionably lead to significant delays in the prosecution of cases, both with regards to individual cases and in the overall criminal justice system.

80. Plaintiff is further harmed by the fact that her employees (and the office itself) are now subject to pattern and practice investigations by Defendant Raoul and,

thus, must devote additional resources to respond to any allegations in that regard whether they possess merit or not.

81. Plaintiff has a clear and ascertainable right to be free from unconstitutional legislation and that right is in need of protection.

82. No adequate remedy at law exists, because the disruption to the criminal justice system that will occur on January 1, 2023, cannot be remedied by monetary damages. *See, Hough v. Weber*, 202 Ill. App. 3d 674, 687, 560 N.E.2d 5, 15 (2nd Dist. 1990).

83. Finally, Plaintiff has a significant likelihood of success on the merits of her underlying claims for declaratory relief as the provisions of HB 3653/Public Act 101-652 are clearly unconstitutional and were passed in an unconstitutional manner.

84. As such, a preliminary injunction should enter preventing the enforcement of any bail provisions in the Public Act 101-652 until the other claims in the above-captioned case can be fully litigated.

WHEREFORE, Plaintiff requests this Court enter an order that the State of Illinois is enjoined from implementing or enforcing the provisions of Public Act 101-652.

JACQUELINE M. LACY and
PEOPLE OF THE STATE OF ILLINOIS

By: _____
Jacqueline M. Lacy
Vermilion County State's Attorney

Jacqueline M. Lacy, State's Attorney (ARDC# 6279225)
Michael P. Pawl, First Assistant State's Attorney
Kevin Schneider, Chief Civil Division, Assistant State's Attorney
Amanda J. Mank, Assistant State's Attorney

Office of Vermilion County State's Attorney
Rita B. Garman Vermilion County Courthouse
7 N. Vermilion St., Suite 201
Danville, IL 61832
P: (217) 554-7750
F: (217) 554-7775
statesattorney@vercounty.org