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For Immediate Release

The SAFE-T Act, containing the Pre-Trial Fairness Act, signed into law as Public Act 101-652, has been the subject of much discussion locally, statewide and even nationally, and rightfully so. Public Act 101-652 abolishes our current system of monetary bail and initiates an unworkable, inconsistent and unsafe formula of pretrial release that creates a presumption that a defendant is entitled to release on personal recognizance.

Public Act 101-652 was passed by the Illinois legislature during a lame duck session in the early morning hours of January 13, 2021, without the opportunity for legitimate debate, and signed into law by Governor Pritzker on February 22, 2021. The institution of the Pre-Trial Fairness Act is scheduled to take effect on January 1, 2023, despite concerns about public safety and inconsistencies in the law voiced by so many from all levels of law enforcement and from members of our communities from both political parties.

As of January 1, 2023, pretrial release is presumed and permitted to be denied only if the defendant has been charged with committing a Class 3 or above felony and where it is alleged and proven by clear and convincing evidence that the defendant presents a high likelihood of willful flight, or under a specific list of offenses to include only non-probationable forcible felonies, sex offenses, stalking/agg. stalking, gun offenses and in certain cases relating to domestic violence, where it is alleged and proven by clear and convincing evidence that the defendant's pretrial release poses varying levels of threat to any person or the community based upon the specific offense. 725 ILCS 5/110-6.1.

For example, Burglary, a Class 2 Felony, which is considered a forcible felony, is a probationable offense, and thus, is not a qualifying offense to deny pretrial release, unless proven by clear and convincing evidence that the defendant presents a high likelihood of willful flight. However, the SAFE-T Act goes on to say that "[w]illful flight means planning or attempting to intentionally evade prosecution by concealing oneself. Simple past non-appearance in court alone is not evidence of future intent to evade prosecution." 725 ILCS 5/110-1(e). Consensus among members of law enforcement and state's attorneys interpret this to mean that short of a defendant willingly disclosing his plan to evade prosecution, which is highly unlikely, a defendant charged with Burglary, a Class 2 Felony, will be released pending trial without any consideration of his or her prior criminal history, the weight of the evidence, the seriousness of the offense, the safety of the community and without legitimate consideration for past non-appearance in court.

If a defendant fails to appear after being placed on pretrial release the court may issue an order to show cause as to why he or she shall not be subject to revocation of pretrial release, or

for sanctions. However, prior to proceeding on the rule to show cause to hold the defendant accountable for failing to appear as promised, that defendant shall be served with notice 48 hours in advance of a scheduled hearing for a rule to show cause for failure to appear.

This legislation takes away the ability of a Judge to make informed comprehensive decisions to ensure a defendant's appearance in court and ensure the safety of our communities. Post January 1, 2023, we are sure to see events unfold that will have a negative impact toward victims, witnesses and the safety of our communities all across the State of Illinois.

Recently, Governor Pritzker said he intends to "set the record straight" by stating that the abolition of cash bail by the SAFE-T Act will address the problem of a "single mother who shoplifted diapers for her baby . . . who is put in jail for six (6) months because she doesn't have a couple of hundred dollars to pay for bail . . . That's what the SAFE-T Act is about."

I completely agree with Governor Pritzker that a single mother who commits retail theft in the form of diapers for her baby should not be held in jail for six (6) months. However, the scenario Governor Pritzker describes to "set the record straight" is currently legally impossible in the State of Illinois.

Specifically, what Governor Pritzker describes is a Class A misdemeanor for retail theft. I cannot speak for other jurisdictions, but in most cases involving a Class A misdemeanor for retail theft in Monroe County, a person is written a citation with a court date. If circumstances exist where an arrest is made on a Class A misdemeanor for retail theft, bond is typically set at \$1,000.00, with 10% to apply, requiring \$100.00 to be released. Everyone, yes everyone, who is in custody has a right to a speedy trial within 120 days (roughly 4 months). In addition, for a Category B offense, such as misdemeanor retail theft, a person receives credit for \$30.00 per day for each day served against his or her bail.

I focus on Governor Pritzker's statement to illustrate the lack of willingness to have legitimate and accurate conversations about our current system of bail and what we can do to improve our system without sacrificing the safety of our communities and victims, as the SAFE-T Act does, and to see that due process and justice are served. Am I opposed to the SAFE-T Act as written: Absolutely. Am I willing to discuss bail reform and discuss the creation of a pretrial system that is not solely dependent on a person's financial ability: You bet.

As it stands, the law will effectively tie the hands of law enforcement in favor of those who see fit to act contrary to our laws and take advantage of our safety and prosperity in Monroe County. Because of the complete lack of response from the legislature to resolve the problems they are creating for the good people of the State of Illinois, and I speak for the people of Monroe County specifically, I have decided to join my fellow State's Attorneys in a bipartisan effort throughout the State of Illinois and file a complaint to hold this aberration of law unconstitutional to prevent the institution of the SAFE-T Act.

I am sincerely disappointed that it has come to such a measure. However, I took an oath to support the Constitution of the United States and the Constitution of the State of Illinois, and I will do what is necessary to uphold my duty to defend the Illinois Constitution and the rights of every citizen, and ensure fundamental public safety.

In spite of it all, I pledge that I will do what I can within the law and work with law enforcement to meet the challenges that are sure to come.