

# THE 2021 SAFE-T ACT: ICJIA ROLES AND RESPONSIBILITIES



## ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY

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*Abstract: The 2021 Illinois Safety, Accountability, Fairness and Equity-Today (SAFE-T) Act enacts extensive reform impacting many areas of the criminal justice system, including pre-arrest diversion, policing, pretrial, sentencing, and corrections. The Illinois Criminal Justice Information Authority is tasked with implementing several of the Act's provisions. These areas of the Act include policing, pretrial, and deaths in custody, as well as leading and serving on task forces. This article highlights areas of the Act, details ICJIA's roles in legislation, and shares ICJIA research related to the Act's provisions.*

## Introduction

Signed into law by Gov. JB Pritzker on Jan. 22, 2021, the [Illinois Safety, Accountability, Fairness and Equity-Today \(SAFE-T\) Act](#) (the Act) implements sweeping reform impacting many aspects of the criminal justice system, including pre-arrest diversion, policing, pretrial, sentencing, and corrections. Many provisions of the Act take effect July 1, 2021. The Illinois Criminal Justice Information Authority (ICJIA) is tasked with implementing several of the Act's provisions in the areas of policing, pretrial, and deaths in custody, and with leading task forces. This article offers highlights of the Act, details ICJIA's roles in legislation, and includes related ICJIA research.

## Summary of SAFE-T Act

The SAFE-T Act<sup>1</sup> is extensive, incorporating many aspects of the criminal justice system and crime victim support. The Act covers three areas of criminal justice reform —policing, pretrial, and corrections (jails and prisons), described in the lists below. Due to the scope and breadth of the Act, these lists are not detailed and may not be exhaustive. Please reference the [full Act](#) for specifics and exact language. The asterisks indicate areas in which ICJIA has a role.

### SAFE-T Act: Policing Highlights

#### Use of Force

In the area of use of force, the Act:

- Offers new standards for when police use force.
- Requires officers to provide aid after using force.<sup>2</sup>
- Requires officers to intervene if other officers use unauthorized or excessive force.<sup>3</sup>
- Prohibits police access to any military equipment surplus program or purchasing specific types of equipment.<sup>4 5</sup>
- Requires publishing of any purchase, request, or receipt of equipment through any military purchasing program.<sup>6</sup>
- Expands use of, and changes guidelines and requirements for, body worn cameras and who may access, review, or delete footage.<sup>7</sup>
- Expands officer training on topics including crisis intervention, de-escalation, use of force, high-risk traffic stops, implicit bias, racial and ethnic sensitivity training, and emergency response.<sup>8</sup>
- Mandates use of force reporting to FBI National Use of Force Database.<sup>9</sup>
- Requires reporting of deaths in police custody and due to use of force.<sup>10\*</sup>

#### Complaints and Misconduct

In the areas of complaints and misconduct, the Act:

- Creates a statewide decertification process for officers.<sup>11</sup>

- Allows the attorney general to investigate, initiate civil lawsuits, and enforce settlements against police agencies that have a pattern of depriving individuals of their rights.<sup>12</sup>
- Creates stricter body camera regulations and a Class 3 felony for clear and willful attempts to obstruct justice.<sup>13</sup>
- Allows for investigation of anonymous complaints against officers.<sup>14</sup>
- Bans the destruction of police misconduct records.<sup>15</sup>
- Allows complaint filings against police officers without sworn affidavits or other legal documentation.<sup>16</sup>
- Removes the requirements that officers under investigation must be informed of complainants' names or of the officer in charge of the investigation.<sup>17</sup>
- Prohibits local governments from retaliating against employees who report improper government actions.<sup>18</sup>
- Expands notification of police misconduct to the Illinois State Training and Standards Board.<sup>19</sup>
- Makes data on misconduct more accessible.<sup>20</sup>
- Requires a publicly available database for any police misconduct that results in decertification.<sup>21</sup>

### **Certification and Decertification Process**

In the certification and decertification process area, the Act:

- Changes Illinois State Police Merit Board composition and reporting to the board.<sup>22</sup>
- Creates a Illinois Law Enforcement Certification Review Panel.<sup>23</sup>
- Enhances automatic and discretionary termination of officers.<sup>24</sup>
- Changes procedures for automatic and discretionary decertification of officers.<sup>25</sup>
- Includes provisions for immediate suspensions.<sup>26</sup>
- Requires verification of training and employment information.<sup>27</sup>
- Requires additional sheriff qualifications.<sup>28</sup>

### **Other Police Provisions**

In other police provisions, the Act:

- Adds reporting of officer dispatch to mental health crises or incidents.<sup>29</sup>
- Makes residency requirements a subject of collective bargaining for cities with populations over 100,000.<sup>30</sup>
- Requires officers to issue a citation rather than arrest for certain low level offenses.<sup>31</sup>
- Provides for confidential mental health screening and counseling for officers.<sup>32</sup>
- Expands crime statistics reporting to monthly.<sup>33</sup>
- Provides people in custody with up to three phone calls within three hours.<sup>34</sup>
- Allows for medical treatment for people in custody without unreasonable delay.<sup>35</sup>
- Amends police pre-arrest diversion/deflection programs to allow for collaboration with other first responders and community partners.<sup>36\*</sup>

\*ICJIA is named in this section.

### **SAFE-T Act: Pretrial Highlights**

In the pretrial area, the ACT:

- Abolishes cash bail.<sup>37</sup>
- Prevents the results of a risk assessment from being the sole basis for a detention decision and informs the accused person of the tool.<sup>38</sup>
- Establishes a Pretrial Practices Data Oversight Board to oversee data collection and analysis.<sup>39\*</sup>
- Establishes the Domestic Violence Pretrial Practices Working Group.<sup>40 \*</sup>
- Adds notification of pretrial hearing to crime victims.<sup>41</sup>
- Changes the offense class for violations of conditions of pretrial release.<sup>42</sup>
- Changes pretrial release procedures, including release on own recognizance, warrant alternatives, and conditions of release, including electric monitoring and home confinement revocation, modification, and sanctions.<sup>43</sup>
- May revoke pretrial release under certain circumstances.<sup>44</sup>

\*ICJIA is named in this section.

### **SAFE-T Act: Correctional Highlights**

In the area of corrections, the ACT:

- Requires the Illinois Department of Corrections to report prison inmates' most recent known address prior to incarceration to the State Board of Elections to use in redistricting legislative districts.<sup>45</sup>
- Requires reporting of deaths in custody.<sup>46\*</sup>
- Enhances sentencing credits for incarcerated individuals.<sup>47</sup>
- Amends court options in sentencing decisions to prison.<sup>48</sup>
- Alters mandatory supervised release terms.<sup>49</sup>
- Amends definition of habitual criminal and first-degree murder charge.<sup>50</sup>
- Clarifies sentence credit for time in custody for home detention.<sup>51 52</sup>
- Allow for certain movements for those on electronic monitoring and home detention.<sup>53</sup>  
54
- Increases eligibility for individuals who were sentenced for certain drug offenses to enter diversion or probation programs.<sup>55</sup>
- Requires corrections staff training related to pregnant women and provides education and assistance with care of children and newborn infants.<sup>56</sup>

\*ICJIA is named in this section.

In addition to criminal justice reforms, the Act has provisions regarding crime victims. The Act changes crime victim compensation by:

- Expanding the definition of crime victims for compensation purposes.
- Increasing the time period for victim compensation.
- Allowing the attorney general and the court of claims to accept a compensation claim.
- Expanding compensation to sexual assault survivors.
- Prohibiting barring compensation based on criminal history.
- Increasing monetary support for loss of future earnings and for funeral costs.

In addition, the Act states the state's attorney's office shall notify crime victims of the defendant's initial pretrial hearing and allow them an opportunity to obtain an order of protection at the hearing.

Finally, the Act reduces restrictions on driver's license suspension, cancellation, and prohibition of renewal based on failure to pay certain fines or other requirements.<sup>57</sup>

### **ICJIA Roles & Responsibilities**

ICJIA has several roles in implementing the SAFE-T Act. ICJIA will lead and provide support to task forces, collect and report on new data, and expand eligibility for deflection program funding.

#### **Task Force on Constitutional Rights and Remedies**

The Act requires ICJIA to coordinate the Task Force on Constitutional Rights and Remedies. This task force will develop and propose policies and procedures to review and reform constitutional rights and remedies, including qualified immunity for police officers.<sup>58</sup> The [Illinois state constitution](#) allows people to find legal remedies for injury and wrongs.<sup>59</sup> Qualified immunity for police officers refers to exemptions that some government employees have from being sued due to violating a person's constitutional rights.<sup>60</sup> The Act outlines task force member composition and members shall meet and produce a report detailing their findings, recommendations, and any required resources.

ICJIA will lead a Domestic Violence Pretrial Practices Working Group<sup>61</sup> and issue a report on current practices in pretrial domestic violence courts throughout Illinois. Courts have struggled with pretrial detention decisions for domestic violence aggressors given the potential risks to their victims upon release.<sup>62</sup> The working group is required to meet quarterly and issue final report with recommendations for evidence-based improvements to court procedures.

## **Pretrial Practices Working Group and Oversight Board**

In addition, ICJIA will serve on the Pretrial Practices Data Oversight Board convened by the Administrative Office of the Illinois Courts.<sup>63</sup> The Board is responsible for:

- Identifying existing pretrial data collection processes.
- Defining, gathering, and maintaining records of pretrial data.
- Identifying resources necessary to collect and report data.
- Developing a plan to implement data collection processes to collect data.
- Developing a strategy to collect data.

## **Police and First Responder Deflection Programs**

The Act amends the Community-Law Enforcement Partnership for Deflection and Substance Disorder Treatment Act [5 ILCS 820].<sup>64</sup> Police and first responder deflection programs offer community-based pathways to treatment for individuals with behavioral health needs while steering them away from the justice system. Since 2019, ICJIA has been tasked with administering funding for deflection programs. The Act expands deflection programs so that other first responders—emergency medical services (EMS) and fire departments—as well as includes co-responder approaches. The Act allows funding for supplies necessary for overdose reversal and treatment services. The amendment requires participating licensed treatment providers to release statistical data to ICJIA so that it may assess the programs. The Act establishes training requirements for entities receiving funding.

## **Death in Custody and Use of Force Data Collection and Reporting**

Under the Act, ICJIA will collect and publish detailed data from law enforcement agencies and correctional facilities, including:<sup>65</sup>

- When a person dies in the custody of a law enforcement agency, an officer, or local or state correctional facility.
- When someone dies as a result of an officer's use of force.

ICJIA is required to post the information collected to its website quarterly and issue an annual report on trends and information on deaths in custody, as well as recommendations and efforts to reduce deaths in custody.

## **Related ICJIA Research**

ICJIA has completed the following research reports and articles on key Safe-T Act topics.

### **Police and First Responder Programs**

The Act changes how and to whom ICJIA administers funds for deflection programs, which have been the subject of ICJIA research since 2017. This ICJIA [overview of the field of deflection](#) describes its evolution, challenges, and research on the topic. Researchers also compiled [deflection options](#), such as proactive community outreach, diversion based on risk and needs assessment, and civil citation, and [post-opioid overdose responses](#).

In a 2017 [study](#), ICJIA researchers conducted interviews with leaders of seven deflection programs across Illinois. Researchers found programs were concerned about treatment capacity and recommended that programs further involve the community and enhance training of officers on substance use disorders. An [ICJIA evaluation of Safe Passage](#), a deflection program in Lee and Whiteside counties, showed the program's promise in its collaborative approach to connecting community residents to substance use disorder treatment.

### **Crisis Intervention Training**

The Act requires crisis intervention training for probationary police officers and annual crisis intervention training for all officers. The 40-hour training educates officers on specialized policing responses for people with mental illnesses. Chicago Police Department's 40-hour crisis intervention training for youth (CIT-Y) focuses on symptoms of youth mental disorders, assessing risk of harm, crisis de-escalation techniques, and community-based treatment services. ICJIA evaluations of the department's CIT-Y training program found officers [were very satisfied](#) with the training's content and delivery and that the training [increased knowledge and positive attitudes](#) toward handling youth crisis service calls

### **Police Body-Worn Cameras**

The Act sets deadlines for all police departments to use body-worn cameras and details access to camera footage. Police departments use technology, such as body-worn cameras, to improve response times, aid in investigating crime, and enhance transparency. An ICJIA [literature review](#) on police technology types, adoption, and efficacy revealed research indicating body-worn cameras can reduce use of force and complaints against officers.

### **Pretrial Court Processes**

The Act changes many pretrial practices, including eliminating cash bail. This ICJIA [overview of pretrial](#) detention, bail, and supervision also outlined potential areas for reform.

### **Mandatory Supervised Release**

The Act reduces the amount of time individuals must serve mandatory supervised release (parole) based on offense class. Individuals released from prison on mandatory supervised release may face a variety of challenges. This ICJIA overview [described several evidence-based practices and programs](#) to ease community reentry, including work release, vocational training, housing assistance, therapeutic communities, and social supports, such as assisting with in-prison visitation to strengthen family relationships. [Core correctional practices and motivational interviewing also are associated with positive outcomes for those on community supervision](#). Other ICJIA research showed [entrepreneurial programs may hold promise](#) for business-minded individuals on mandatory supervised release.

## **Electronic Monitoring in Corrections**

An ICJIA study on Illinois [discretionary use of EM for those on mandatory supervised release](#) from prison revealed those placed on EM had a slightly higher proportion of later prison admissions for technical violations and person offenses compared to a group that was not on EM. The study showed support for limiting EM, at least for those released from prison. The Act allows the Illinois Department of Corrections to offer more individuals electronic home detention for individuals convicted on Class 3 and 4 felony non-violent crimes who have less than four months of their sentence left. The definition of "home detention" changed to allow detention to be less than 24 hours per day and may not require EM.

## **Victim Compensation and Notification**

The Act changes who can receive, and the amount of funding available for, crime victim compensation. The crime victim compensation fund provides financial assistance to victims of violent crime. In a 2019 ICJIA article [explaining the victim compensation fund](#), the authors noted that many potentially eligible victims, including family members of homicide victims, do not receive victim compensation. In addition, the Act also states the state's attorney's office shall notify crime victims of the defendant's initial pretrial hearing date and allow them an opportunity at the hearing to obtain an order of protection.

## **Forthcoming Research**

ICJIA is conducting SAFE-T Act-related literature reviews, research studies, and evaluations. Research is underway on police deflection programs across the state, including Lake County's *Way Out* program. Researchers also are examining literature on use of force and police reform and evaluating DuPage County's First Offender Call Unified for Success (FOCUS) program, which offers an alternative for individuals charged with felony drug possession for the first time.

ICJIA also is charged with collecting death in custody data per the federal [Death in Custody Reporting Act](#). Data collection will be expanded by the SAFE-T Act to include data on any use of force by police in Illinois and COVID-19-attributable deaths in custody in jails and prisons will be examined. Researchers also will examine pretrial data to identify trends and measure reform efforts and outcomes.

## **Conclusion**

The Illinois SAFE-T Act is a massive criminal justice reform effort that primarily focuses on policing, pretrial, and corrections. ICJIA will lead, or contribute to, certain areas of the Act, including police and first responder programs, a task force on certain civil legal remedies for constitutional rights violations, a working group on pretrial practices, police, and first responder deflection programs, and data collection on use of force. ICJIA is actively planning for its role in implementing reforms outlined in the SAFE-T Act with much work to be done in the coming months and years.



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<sup>1</sup> For other summaries of the Illinois SAFE-T Act see: Civic Federation. (2021). *Summary of provisions in Illinois House Bill 3653: Criminal Justice Omnibus Bill*. Author.

<https://www.civiced.org/iifs/blog/summary-provisions-illinois-house-bill-3653-criminal-justice-omnibus-bill>

<https://www.iljp.org/hb-3653>; Dukmasova, M. (2021, March 19). *Bail abolition is just the tip of the iceberg*. The Chicago Reader. <https://www.chicagoreader.com/chicago/hb3653-illinois-criminal-justice-reform/Content?oid=87300957>; Illinois Justice Project. (2021). *Read summaries of the elements of the Illinois' historic bill HB3653*. <https://www.iljp.org/hb-3653>; Sentencing Policy Advisory Council. (2021).

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<sup>2</sup> 720 ILCS 5/7-15. (pg. 289)

<sup>3</sup> 720 ILCS 5/7-16 (pg. 289)

<sup>4</sup> 20 ILCS 2610/17c (pg 52)

<sup>5</sup> 55 ILCS 5/3-6041 pg. 112

<sup>6</sup> 55 ILCS 5/3-6041 pg. 112

<sup>7</sup> 50 ILCS 706/10-15 (pg. 78)

<sup>8</sup> 50 ILCS 705/10.6 (pg. 76)

<sup>9</sup> 50 ILCS 709/5-11 (pg. 90)

<sup>10</sup> Article 3. (pg. 6)

<sup>11</sup> 50 ILCS 705/6.3 (pg. 697)

<sup>12</sup> 15 ILCS 205/10 (pg. 44)

<sup>13</sup> 720 ILCS 5/33-9 (pg. 306)

<sup>14</sup> 50 ILCS 727/1-35 (pg. 95)

<sup>15</sup> 50 ILCS 205/25 (pg. 66)

<sup>16</sup> 20 ILCS 2610/14 (pg. 49)

<sup>17</sup> 50 ILCS 725/3.2 (pg. 93)

<sup>18</sup> 50 ILCS 105/4.1 (pg. 59)

<sup>19</sup> 50 ILCS 705/6.3 (pg. 699)

<sup>20</sup> 20 ILCS 2610/46 (pg. 668)

<sup>21</sup> 50 ILCS 705/9.2 (pg. 744)

<sup>22</sup> 20 ILCS 2610/3 (pg. 652)

<sup>23</sup> 50 ILCS 705/3.1 (pg. 675)

<sup>24</sup> 20 ILCS 2610/12.6 (pg. 663); 20 ILCS 2610/12.7 (pg.664)

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- <sup>25</sup> 20 ILCS 2610/12.6 (pg. 663): 20 ILCS 2610/12.7 (pg.664)
- <sup>26</sup> 50 ILCS 705/8.3 (pg. 734)
- <sup>27</sup> 50 ILCS 705/8.4 (pg. 736)
- <sup>28</sup> 55 ILCS 5/3-6001.5 (pg. 762)
- <sup>29</sup> 50 ILCS 709/5-12 (pg. 92)
- <sup>30</sup> 5 ILCS 315/114 (pg. 20)
- <sup>31</sup> 725 ILCS 5/109-1 (pg. 326)
- <sup>32</sup> 50 ILCS 705/6 (pg. 68)
- <sup>33</sup> 50 ILCS 709/5-10 (pg. 89)
- <sup>34</sup> 725 ILCS 5/103-3 (pg. 410)
- <sup>35</sup> 725 ILCS 5/103-2 (pg. 410)
- <sup>36</sup> 5 ILCS 820/5 (pg. 33)
- <sup>37</sup> 725 ILCS 195/2 (pg. 447)
- <sup>38</sup> 725 ILCS 195/2
- <sup>39</sup> 20 ILCS 3930/7.7 (pg. 53)
- <sup>40</sup> 20 ILCS 3930/7.8 (pg. 57)
- <sup>41</sup> 725 ILCS 120/4.5 (pg. 417)
- <sup>42</sup> 720 ILCS 5/32-10 (pg. 279)
- <sup>43</sup> 725 ILCS 5/110-2 (pg. 335)
- <sup>44</sup> 725 ILCS 5/109-1 (pg. 325)
- <sup>45</sup> Pg. 5
- <sup>46</sup> Article 3 (pg. 6)
- <sup>47</sup> 730 ILCS 5/3-6-3 (pg. 484, 497)
- <sup>48</sup> 730 ILCS 5/5-8-6 (pg. 530)
- <sup>49</sup> 730 ILCS 5/5-8-1 (pg. 527)
- <sup>50</sup> 730 ILCS 5/5-4.5-95 (pg. 515)
- <sup>51</sup> 725 ILCS 5/110-5 (pg. 355)
- <sup>52</sup> 720 ILCS 5/9-1 (pg. 290)
- <sup>53</sup> 730 ILCS 5/5-4.5-100 (pg. 519)
- <sup>54</sup> 730 ILCS 5/5-8A-4 (pg. 536)
- <sup>55</sup> 730 ILCS 5/5-6-3.8 (pg. 521)
- <sup>56</sup> 55 ILCS 5/3-15003.6 (pg. 586)
- <sup>57</sup> 625 ILCS 5/6-209.1 (pg. 189)
- <sup>58</sup> Article 4 (pg. 12-14)
- <sup>59</sup> See Constitution of the State of Illinois, Article I, Bill of Rights, Section 12, Right to Remedy and Justice; Phillips, T. R. (2003). *The constitutional right to a remedy*. *NYUL Rev.*, 78, 1309-1345.
- <sup>60</sup> Sobel, N. (2020, June 6). *What is qualified immunity, and what does it have to do with police reform?* Lawfare. <https://www.lawfareblog.com/what-qualified-immunity-and-what-does-it-have-do-police-reform>
- <sup>61</sup> 20 ILCS 3930/7.8. (pg. 58-59)
- <sup>62</sup> Duane, M., & Vasquez-Noriega, C. (2018). *Pretrial strategy for handling intimate partner violence cases*. Urban Institute. [https://www.urban.org/sites/default/files/publication/99167/pretrial\\_strategy\\_for\\_intimate\\_partner\\_violence.pdf](https://www.urban.org/sites/default/files/publication/99167/pretrial_strategy_for_intimate_partner_violence.pdf)
- <sup>63</sup> 20 ILCS 3930/7.7 (pg. 53-57)
- <sup>64</sup> Pg. 32-43
- <sup>65</sup> Article 3 (pg. 6-12)