



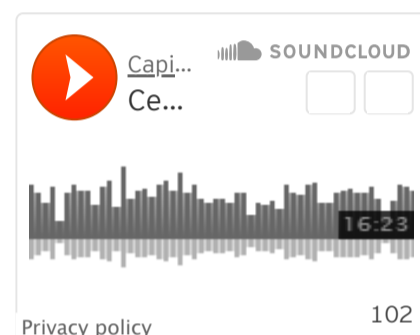
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# What's in the SAFE-T Act? A look at the 2021 criminal justice reform and how it has evolved

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Rep. Justin Slaughter, D-Chicago, is pictured on the floor of the Bank of Springfield Center which served as the state House chamber in January 2021 amid the passage of the SAFE-T Act criminal justice reform. (Credit: Justin Fowler, Springfield State Journal-Register)

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## Law enforcement opposition has softened since initial passage, although concerns remain

By GRACE KINNICUTT

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SPRINGFIELD – Amid a campaign season in which every constitutional office and seat in the Illinois General Assembly will be up for vote, rising crime and a landmark criminal justice reform passed in 2021 have become dominant topics for Republicans trying to loosen Democrats' hold on state government.

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The broad-ranging measure abolishes cash bail beginning in January 2023, reforms police training, certification and use-of-force standards, expands detainee rights, and requires body cameras at all departments by 2025.

Since its passage, the measure has been amended twice to accommodate concerns of law enforcement groups, pushing back certain effective dates and changing some of the initial use-of-force language.

Proponents say the reform is a step toward making the justice system equitable and fair for Black, Latino and minority communities who have been disproportionately harmed by it.

In a phone interview with Capitol News Illinois, House chair of the Illinois Legislative Black Caucus, Rep. Kam Buckner, D-Chicago, said the SAFE-T Act was the “first stab” at addressing public safety issues and police distrust in minority communities.

“There is no such thing as perfect legislation, but I think all legislation can be perfected if it’s handled the right way,” Buckner said.

Republicans, meanwhile, have referred to the bill as a “de facto defund the police bill” due to its added training and equipment requirements and purported effect on officer morale, even though it doesn’t directly affect law enforcement funding.

The measure passed on razor-thin majorities in the lame duck session of 2021, which led to a brief effort by Republican superminorities to repeal the act that ultimately fell flat.

Law enforcement groups have since softened their opposition to the bill amid the two follow-up proposals.

Let me make it clear to you that the Illinois Association of Chiefs of Police is not against the SAFE-T Act (because) we have put countless hours in collaborating with elected officials,” Hazel Crest Police Chief Mitchell Davis said at a news conference earlier this year.

Davis was the president of the Illinois Association of Chiefs of Police during the bill’s passage. Ed Wojcicki, the executive director of that organization, said in an interview the “ship has sailed” on a full repeal, although discussions on fine-tuning the law continue.

“We’re perfectly fine with saying hold us more accountable, make us be transparent, require more training,” Wojcicki said. “We just tried to educate the legislature that what they wrote down in the law was very difficult to implement on the street.”

## Cash bail

One of the more controversial provisions of the bill abolishes cash bail in Illinois and replaces it with a system that will prioritize the severity of an offense, the risk of not appearing for court and the threat and danger the individual poses to another person or the community if they were to be released.

The provision does not go into effect until Jan. 1, 2023, but opponents claim it will allow “dangerous and violent criminals” back on the street, tying the hands of prosecutors who seek to keep the accused individuals incarcerated before a conviction.

Rep. Justin Slaughter is the Chicago Democrat who carried the SAFE-T Act in 2021. In April, he accused Republicans of a “bad stench of racism” in their opposition to the reform.





“If this is a violent, dangerous offense, we certainly want to hold offenders accountable but at the same time, we want to have an understanding of the root causes of crime and violence,” Slaughter said.

But Republicans and some state’s attorneys have lately been arguing that the opposite may be true.

James Glasgow, a Democratic Will County state’s attorney, argued that the SAFE-T Act requires a higher burden of proof to detain accused violent criminals until trial.

The SAFE-T Act states that all defendants “shall be presumed eligible” for pretrial release unless prosecutors present “clear and convincing” evidence to deny the suspect pretrial release, such as proof that the suspect committed the crime and poses a threat to the physical safety of a “specific, identifiable” person.

Prosecutors are required to submit a request for detention if the offender committed a crime that poses a significant threat to public safety of an individual or community. The state is also required to provide each suspect a hearing within 48 hours to determine if the suspect should be released.

Glasgow said it’s nearly impossible to provide evidence needed within 48 hours since it takes time to review body and surveillance cameras and crime labs take time to process evidence.

“I’m not against no bail for nonviolent crimes,” Glasgow said. “But when it’s protecting the health, safety and welfare of the law-abiding citizens, we have to be able to do that.”



In a phone interview, Sen. John Curran, R-Downers Grove, who is a former prosecutor, said that instead of eliminating cash bail altogether in Illinois, he would prefer a model similar to one in place in New Jersey, which permits cash bail in narrow circumstances.



Curran said such a system would ensure that individuals who are threats to the safety of communities are being held.

## Detainee rights

The SAFE-T Act also establishes the right for an individual in police custody, or who is moved from one place of detention to another, to make three phone calls within three hours after arriving at the new place of custody.

During floor debate on [House Bill 3512](#), one of the follow-up measures, Minority Leader Jim Durkin, a former prosecutor from Western Springs, raised concerns that the three phone calls will allow the offender to call the victim and “scare the hell out of them” to prevent the victim from pressing charges.

Durkin said that without proper restrictions in place for the phone calls, it could lead to witness tampering and intimidation, particularly in domestic violence situations.

But the bill states that only calls made to a public defender or other attorney can’t be “monitored, eavesdropped upon, or recorded.”

Slaughter said in an interview that elected officials can’t dictate who the individual can call but they can ensure that the detainees have the access to communication when in custody.

“People need to know what’s happening and that you are moving from one place to another and that you get access to communication,” Slaughter said.



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The three-hour requirement for the phone calls does not apply when the individual is asleep, unconscious or not complying with officers, and police must document the noncompliance.

## Certification standards

The SAFE-T Act also overhauls the police certification and decertification process and provides more power to the Illinois Law Enforcement Training and Standards Board, which oversees training and grant programs for law enforcement and correctional officers throughout the state.

Follow-up legislation pushed back the effective dates for the police certification and decertification system from Jan 1, 2022, to July 1, 2022.

The SAFE-T Act creates a certification system placing law enforcement officers into three categories: active, inactive and decertified. Those with active certification can be legally employed at any Illinois agency in a law enforcement capacity.

The provision provides ILETSB more discretionary authority to decertify officers for unethical or unprofessional conduct that would not rise to the level of felony. Law enforcement agencies will be required to hire only certified officers.

Slaughter said that before the SAFE-T Act, the decertification process in Illinois severely lagged compared to other states and that the state is “trying to play catch up.”

← Prior to the SAFE-T Act, an officer's certificate could be revoked upon a conviction of a felony, or under certain misdemeanors from a limited list of “decertified misdemeanors,” including theft, bribery, harassment of witnesses or jurors, or using deceptive practices. →

The SAFE-T Act also allows for anonymous complaints against police officers and removes a requirement that officers under investigation must be informed of the complainants' names or officer in charge of the investigation.

In an interview, Rep. Patrick Windhorst, R-Metropolis, who is a former prosecutor, said the new certification portion may have a positive impact, but one potential negative consequence is individuals using the anonymous complaint process to try to impact their criminal case.

Opponents of the legislation have also claimed that it is causing low morale among law enforcement and that more needs to be done to address the growing need for officers to keep communities safe.

But Slaughter said when looking at it through a social equity lens, the new system can help with bad policing and help restore trust and respect with law enforcement among those who have been disproportionately impacted.

The law also requires officers to complete 30 hours of training every three years consisting of hands-on scenario-based training, use-of-force techniques and de-escalation, officer safety, and high-risk traffic stops. It also requires training in crisis intervention, racial and ethnic sensitivity, and officer wellness and mental health.

The Fiscal Year 2023 budget includes \$10 million for a local law enforcement retention grant program.

## Use of force





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likely to harm others and cannot be caught at a later time.

It also banned the use of chokeholds and any other actions that restrict breathing from being applied above the chest unless an officer is in a situation that authorizes deadly force.

But Wojcicki noted the two follow-up bills addressed concerns surrounding the use of stun guns, chokeholds, pepper spray and tear gas.

The original bill prevented stun guns from being aimed at someone's back, but Wojcicki said the back is the recommended target and that hitting them in front could inadvertently hit the heart. He said the first follow-up measure, [House Bill 3443](#), changed it so that it is okay to target the back with a stun gun.

But Wojcicki said they are still pushing to clarify the language surrounding the definition of a stun gun because they want officers to use lethal weapons less often, yet the law defines a stun gun as a "firearm."

Slaughter filed [House Bill 3904](#) that would remove stun guns from the definition of "firearms." The measure passed the House 106-1 in March but has yet to pass the Senate. Wojcicki said they hope to see the measure passed during the fall veto session.

The law also creates a duty to intervene when another officer is using excessive force and a duty to provide medical assistance to those who are injured.

Wojcicki also noted they hope to see a provision regarding trespassing changed. The SAFE-T Act says that if a person is committing a Class B or C misdemeanor, officers can only issue a citation, rather than detaining an individual.

That means, he said, if someone were to trespass on a homeowner's front porch and the homeowner wanted them removed, an officer wouldn't be able to arrest them or force them to leave.

"Most people, I think, would say there's something wrong with that," Wojcicki said. "That's why we keep saying we want some commonsense changes."

## Body cameras

The legislation also makes body cameras mandatory for law enforcement agencies across the state. The largest departments are required to have body cameras already in place while the rest of the law enforcement agencies must have body cameras implemented by 2025.

Lawmakers dedicated \$30 million to local law enforcement camera grants in the Fiscal Year 2023 budget.

The SAFE-T Act requires cameras be turned on at all times when the officer is in uniform and responding to calls for any law enforcement-related encounter. The camera can be turned off if circumstances prevent it from being on, or when an officer is inside a correctional facility or patrol car that has a functioning camera system.

Victims of a crime, witnesses or community members can also request that the camera be turned off unless it is impractical or impossible to do so, and it can be turned off when an officer is interacting with a confidential informant.





The legislation also contains provisions on victim services, mental health services and sentencing reform, and it creates databases and oversight boards to help with transparency and to navigate what aspects of the bill need to be tweaked moving forward.

“What we know is that this takes a more comprehensive, holistic, robust approach as we look at all the myriad of different complex issues that go into crime environments,” Slaughter said.

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Sen. John Curran, R-Downers Grove, speaks at a Capitol news conference in April with state's attorneys to raise concerns about a provision in the SAFE-T Act that would eliminate cash bail beginning next year. (Capitol News Illinois photo by Jerry Nowicki)



Hazel Crest Police Chief Mitchell Davis, then president of the Illinois Association of Chiefs of Police, speaks at a Capitol news conference in April in support of public safety measures that passed in the recently adjourned legislative session. He said at the news conference that ILACP does not oppose the SAFE-T Act. (Capitol News Illinois photo by Jerry Nowicki)

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