



# Illinois Association of CHIEFS OF POLICE

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## P.A 101-0652, *PLUS* trailer bill (HB3443 SA5) **UPDATED** GUIDE TO TOPICS and IMPLEMENTATION **Version 4** **Updated June 17, 2021**

### Background Facts

**February 22, 2021** -- “SAFE-T Act” (PA 101-0652) signed by Governor Pritzker. It was HB 3653, passed by the House and Senate on January 13, 2021, the last day of the lame duck session.

**May 31, 2021** – Trailer bill passes, modifying the SAFE-T Act, pending the governor’s signature.

**June 9, 2021** -- This document, Version 3, prepared by ILACP, can serve as one guide to both the SAFE-T Act and to updates from the trailer bill. It combines the latest information from both. **Substantial changes enacted in the trailer bill are in red type.** The rest of this document are notes from the original SAFE-T Act, in black type.

***Disclaimer:** This document is not intended to provide legal advice. Its purpose is to provide a basic overview for ILACP members of what is in the SAFE-T Act and trailer bill. It does not include all topics in the SAFE-T Act, but focuses on those that are most important to municipal law enforcement agencies at this time. Consult your municipal attorney, government or university attorney, and state’s attorney for specific legal guidance.*

### Effective July 1, 2021

**Maintain police misconduct records permanently.** All records related to complaints, investigations, and adjudications.

**Death in Custody Act.** Requires agencies to report to ICJIA when a person dies while in custody or as the result of a peace officer’s use of force.

**Community-Law Enforcement and Other First Responder Partnership for Deflection and Substance Use Disorder Treatment Act.** Prioritizes funding for deflection programs in certain communities and expands definition of deflection programs and adds to list of subjects for which LE agencies must be trained.

New required areas of training are:

- Neuroscience of Addiction for Law Enforcement;
- Medication-Assisted Treatment;

- Criminogenic Risk-Need for Health and Safety;
- Why Drug Treatment Works?
- Eliminating Stigma for People with Substance-Use Disorders and Mental Health;
- Avoiding Racial Bias in Deflection Program;
- Promotion Racial and Gender Equity in Deflection;
- Working With Community Partnerships; and
- Deflection in Rural Communities.

**Attorney General Act.** Allows AG to conduct investigations and pursue civil action against officers.

**New requirements in curriculum for probationary officers.** Includes CIT, role playing, use of force, and high-risk traffic stops.

**Body camera video review.** (a) Allows an officer to review his or her body camera video before writing an initial report **except in certain specified circumstances**, including when an officer has been involved in or a witness to an officer-involved shooting, use of deadly force incidents, or use of force incidents resulting in great bodily harm, or if an officer is ordered to write a report in response to a misconduct investigation. (b) In those limited cases where the exceptions apply, after writing an initial report, an officer, subject to a supervisor’s approval, may write a supplemental report after reviewing his or her video.

**Additional monthly reporting on mental health crises and use of force to ISP:**

- A report on any incident where a law enforcement officer was dispatched to deal with a person experiencing a mental health crisis or incident, including the number of incidents, the level of law enforcement response and the outcome of each incident. **“For purposes of this Section, a ‘mental health crisis’ is when a person’s behavior puts them at risk of hurting themselves or others or prevents them from being able to care for themselves.”**

- A report on use of force, including any actions that resulted in death or serious bodily injury of a person, or the discharge of a firearm at or in the direction of a person.

**Mandatory reporting to the FBI National Use of Force database.** [Here is a link.](#) Monthly reporting is required, but many agencies don’t know they have to submit a report even if there are no incidents to report that month. The Illinois Chiefs have been on record for two years as supporting participation in this database.

**Military equipment.** Prohibits sheriff’s offices and police departments from requesting or acquiring certain surplus military equipment.

**Restoration of driving privileges.** Requires Secretary of State to rescind suspension of a person’s driver’s license if the suspension was due to failure to pay any traffic fine or penalty, and for similar reasons.

**Use of force restrictions.** **Lengthy section** that amends when an officer can use force or deadly force. **The trailer bill eliminated the language about just letting someone flee if the officer believes the person cannot be arrested at a later date. It also eliminated the undefined word that would have allowed pursuit and arrest if an officer believes the offender had “just” committed a forcible felony.** Defines such terms as deadly force, imminent threat, and totality of the circumstances.

**Prohibits certain kinds of force:** Addresses chokeholds and, in the trailer bill, improves the definition of chokeholds compared to what had been in the original law. Clarifies definition to allow for headlocks and to allow contact with the neck that is not intended to reduce the intake of air. Also, revises the reference to taser to allow for targeting the back, while prohibiting the discharge of electrical weapons that targets “the head, chest, neck, groin, or anterior pelvis.”

**Chemical agents and irritants:** Clarifies the difference between using pepper spray and tear gas for crowd control vs. on an individual, and requires an order to be issued and time allowed for compliance before actually using the chemical agents and irritants. Allows an exception in pepper spray use if waiting would put the officer in risk of harm.

**Duty to Intervene and Duty to Render Aid.** Requires officers to render medical aid and mandates an affirmative duty to intervene to stop or prevent another peace officer in his or her presence from using any unauthorized use of force or force that exceeds the degree of force permitted under the law. The duty to intervene section adds that not only does a police officer have a duty to intervene, but so does “any other person acting under the color of law who has an opportunity to intervene.” The duty to render aid section eliminates a provision that would have required an officer to “carry” an injured person to a doctor or medical facility.

**Law enforcement misconduct:** Trailer bill removes the provision that said an officer commits misconduct if the officer fails to comply with provisions of the body-worn camera statute or department policy requiring the use of BWC. Now says an officer commits misconduct if he or she has “intent to prevent the apprehension or obstruct the prosecution or defense of any person,” ... for knowingly and intentionally misrepresenting to failing to provide material facts, or for knowingly and intentionally failing to comply with four subsections of the Law Enforcement Officer-Worn Body Camera Act.

**No-knock warrants.** Allows for no-knock warrants if the interaction is recorded or if body-worn cameras are in use.

## October 1, 2021

**Review of qualified immunity.** Technically, the Constitutional Rights and Remedies Act. Creates a task force to review and reform qualified immunity. ILACP has a seat on this task force. Members of task force must be appointed within 30 days after July 1, 2021, and the task force’s report to the General Assembly and the governor is due by October 1, 2021. The original due date for the report was May 31.

## Effective January 1, 2022

**Mental health screenings for officers.** Requires the Illinois Law Enforcement Training and Standards Board (ILETSB) to establish statewide minimum standards regarding regular mental health screenings for probationary and permanent police officers.

**30 hours of training every 3 years.** Minimum in-service training. Topics include, as they did previously:

- Constitutional and proper use of law enforcement authority
- Procedural justice

- Civil rights
- Human rights
- Reporting child abuse and neglect
- Cultural competency, including implicit bias and racial and ethnic sensitivity.
- **Scenario-based role playing.** At least 12 hours of hands-on, scenario-based role playing:
  - At least six hours on use of force, including de-escalation techniques
  - Specific training on the law concerning “stops, searches, and the use of force” re 4<sup>th</sup> Amendment
  - Specific training on “officer safety techniques, including cover, concealment, and time.”
  - At least six hours on “high-risk traffic stops.”

**CIT curriculum.** Requires ILETSB to create a specialty certification course of 40 hours. Does not require 40 hours for all CIT training.

**Three phone calls within three hours.** Deadline for the three-phone-call requirement moves from July 1, 2021, to January 1, 2022. Negotiations continue on changing this language. Current law (the SAFE-T Act) mandates that a detainee will have the right to three phone calls within three hours of being taken into custody to communicate with an attorney and family members, free of charge, and allows the detainee to access their own cellular phone for contact numbers. It is still uncertain how “place of custody” is defined, when the clock starts for the three phone calls, and what access, if any, a detainee will have to his or her own cell phone. Negotiations continue, and that is why the date was pushed to 2022.

**New certification and decertification provisions.** Lengthy section **not addressed** in trailer bill. Could be some changes coming before January 1.

- Creates LE Certification Review Panel.
- Automatic and Discretionary decertification.
- Discretionary decertification can be for failing to intervene when an officer is using excessive force (regardless of rank), if the officer makes a false statement in a report or misleads a public servant in the public servant’s performance of an official function, for perjury, evidence tampering, or for other unspecified conduct that is unprofessional, unethical, or a deleterious conduct or practice.
- Requires officers to verify compliance with all requirements for certification every three years.
- Allows ILETSB to accept complaints and investigate allegations from persons who remain confidential, at least initially.
- Alters what “inactive status” is -- occurs upon termination, resignation, retirement or separation from the governmental agency for any reason.
- Creates an officer professional misconduct database at ILETSB. Information in the database cannot be released and is not subject to subpoena or discovery or admissible in evidence in any private civil action.

- Requires sheriffs to be sworn officers; does not apply to any current sheriffs who do not meet this requirement.

## Effective 2022-2025 – Mandatory Body Camera

**Body cameras become mandatory for all LE agencies for all officers *in uniform and while on duty (not undercover officers, administrators, state’s attorneys’ investigators and others)*, as follows:**

- Municipalities and counties with a population of 500,000 or more, by January 1, 2022;
- Municipalities and counties with a population of 100,000 or more but under 500,00, by January 1, 2023;
- Municipalities and counties with a population of 50,000 or more but under 100,000, by January 1, 2024; and
- Municipalities and counties with a population under 50,000 by January 1, 2025.
- For all “other remaining law enforcement agencies” and state agencies with law enforcement officers, by January 1, 2025.

## Effective January 1, 2023

(May be changed again before 1/1/23)

**Obstructing or resisting arrest.** Trailer bill now differentiates what is required to arrest someone for obstructing a police officer vs. resisting arrest. This had been convoluted in the original SAFE-T Act. For resisting, there must be an underlying offense for which the person was initially subject to arrest. For obstructing, there does not need to be an underlying offense.

**Citation in lieu of custodial arrest.** Mandates that law enforcement shall issue a citation in lieu of custodial arrest, upon proper identification, for those accused of traffic offenses and Class B and Class C criminal misdemeanor offenses who pose no threat to the community or any person.

**Anonymous complaints.** Allows any person to file with ILETSB an anonymous complaint against a police officer.

**Bail reform.** “Bail” gives way to “pretrial release.” Replaces all references to “bail,” “bail bond” or “conditions of bail” to be construed as “pretrial release” or “conditions of pretrial release.” Lengthy section.

- Eliminates monetary bail.
- All persons charged with a criminal offense shall be eligible for pretrial release before conviction. Pretrial release may only be denied when a defendant is charged with a specific offense listed in Section 110-6.1 of the Criminal Code of 2012, or who has a high likelihood of willful flight, and after the court has held a hearing. Certain exceptions apply.
- Requires consideration of safety of the crime victim.