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FOR IMMEDIATE RELEASE

Last week the McLean County State's Attorney's Office filed a complaint in McLean County Circuit Court asking the SAFE-T Act be declared unconstitutional. McLean County Sheriff Jon Sandage joined as a plaintiff in the lawsuit. The lawsuit names Governor JB Pritzker, Attorney General Kwame Raoul, Speaker of the House Emanuel Welch, and Senate President Donald Harmon as defendants.

Like many other State's Attorneys across the state, we support the efforts to bring about meaningful, responsible bail reform and remain committed to that endeavor. Over the last several months the Administrative Office of Illinois Courts, the Office of Statewide Pretrial Services, the Illinois Supreme Court Commission on Pretrial Practices Implementation Task Force, and the Illinois Judicial College, in addition to the McLean County State's Attorney's Office locally, have worked tirelessly to interpret and plan for the changes coming as of January 1st of 2023 in order to properly implement change. What has become clear is that the SAFE-T Act is full of contradictions and ambiguities to the extent that implementation across the state is nearly impossible.

In addition to concerns regarding fair implementation for everyone involved in the criminal justice system, there are sincerely held public safety concerns raised by a bipartisan group of law enforcement and State's Attorney's Offices in nearly every Illinois county. As of January 1st of 2023, Illinois Judges will lose their current authority to detain any person the court determines should be based on relevant factors with public safety in mind. Instead, the judiciary will only have authority to detain someone if the State's Attorney's Office files a written petition. That petition may only be filed under restricted circumstances dictated by 725 ILCS 5/110-6.1. In fact, certain offenses are not detainable including some that are considered violent. Unless specifically referenced by the Act, the State's Attorney's Office cannot file petitions to detain regardless of the circumstances on misdemeanors and Class 4 Felonies. Examples include Aggravated DUI Causing Great Bodily Harm, certain Hate Crime offenses, Aggravated Assault with a Firearm, Concealment of a Death, and Threats of Violence Against Persons at a School.

For those Class 3 Felonies or greater that are not explicitly referenced in the Act as detainable, the Act limits pretrial detention based upon "high likelihood of willful flight." Under the Act, public safety is no longer the basis to detain an individual charged with the following offenses: Aggravated Battery (including great bodily harm or permanent disfigurement), Aggravated DUI (fatality), Aggravated Fleeing and Eluding a Peace Officer, Aggravated Leaving the Scene of an

Accident (great bodily harm or death), Drug-Induced Homicide, Intimidation (including threats against witnesses and potential jurors), Threatening a Public Official (first offense), Possession of a Firearm by a Gang Member, Possession of a Stolen Firearm, Concealment of a Homicidal Death, Kidnapping, Robbery, Arson, Burglary, Second-Degree Murder, and all offenses involving lethal drug distribution.

“Willful flight” is narrowly defined as “planning or attempting to evade prosecution by concealing oneself.” This eliminates the ability of an impartial judge to detain an individual based solely upon a chronic history of failure to appear in court. While “willful flight” is a consideration for the court, the restrictive definition under the plain language of the Act makes detention on this basis extremely unlikely.

In preparation for implementation, it has become clear that public safety is threatened if the SAFE-T Act goes into effect in its current form. Law enforcement and prosecutors are not in a position to make legislative changes but are committed to ongoing negotiations with those that hold that power. A responsible compromise that is acceptable to all stakeholders is possible. Regardless of what the law looks like come January 1st of 2023, our offices are committed to pursuing public safety and protecting the rights of all involved in our justice system.