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Statement from the Illinois State's Attorney's Association regarding HB 163

We recognize and applaud the sponsor and all the legislators who have endeavored to tackle these very difficult issues. Democracy is not static - it is a vibrant process, and their efforts are an important part of all our efforts to have a more perfect union. We respect the efforts of the legislation and while we have concerns with aspects of the proposal, we do not take issue with the well-meant intentions of the effort.

Notwithstanding your efforts, the Illinois State's Attorney's Association wishes to voice our opposition to House Bill 163 and its many provisions that will profoundly undermine public safety and overturn long-standing common-sense policies and practices in the criminal justice system.

The Illinois State's Attorney's Association and its members wish to first make clear that it is not opposed to criminal justice reform efforts generally. Rather, we believe that collaborative, bipartisan efforts to make our justice system more equitable, accountable, and even-handed is worthwhile and should be pursued statutorily. However, we are gravely concerned that House Bill 163, sought to be quickly considered and enacted in a "lame- duck" session and days before a new legislature is sworn in, does not afford all stakeholders and lawmakers the opportunity to deliberate upon these issues and give them the reflection that they deserve.

Moreover, there are provisions of this bill that are deeply problematic and will only result in further significant increases in violent crime, undermine public safety, and deny justice to crime victims.

We do agree that some criminal justice reforms are necessary and in the wake of a year where we experienced an enormous increase in murders and armed carjackings, we are willing to work with the General Assembly in attaining such common-sense reforms. The proposed amendments to HB 163 however, simply go too far.

For our criminal justice system to function properly, those who commit crimes must be held responsible. Since the Bail Reform Act of 2017 became law, we have seen a substantial increase in defendants deciding to ignore the courts and simply not appear in court as ordered, thus avoiding responsibility. The elimination of a cash bail requirement to detain a defendant in favor of detention only when the defendant "poses a real and present threat to a specific, **identifiable** person or persons, or has a high likelihood of willful flight" would not only exacerbate this problem but would also put the victims of crime and their families at great risk. For example, a serial arsonist who sets fires to people's homes by law must be released because we cannot specifically identify the person in the home where the next fire will be. A husband who murders his wife must be released because we cannot determine the person poses a danger to a specific, identifiable person or persons. The same applies to heroin dealers, drunk drivers, gun traffickers, and felons in possession of a gun.

It would also allow defendants charged with violent crimes like rape and carjackings to be out on pre-trial release. This is unacceptable. In addition, society as a whole is victimized by violent crime, which not only terrorizes and destroys our communities, but also costs taxpayers millions of dollars every year.

The proposed amendment to HB 163 also seeks to expand Miranda Rights to anyone in custody on probable cause. Protection of an individual's Miranda Rights is fundamental when conducting investigations into crime. The proposed amendment however, if enacted, will essentially preclude law enforcement from questioning a suspect once in custody. In the 1963 United States Supreme Court landmark decision in *Miranda v. Arizona*, the Supreme Court noted that their decision was "not intended to hamper the traditional function of police officers in investigating crime. When an individual is in custody on probable cause, the police may, of course, seek out evidence in the field to be used at trial against him." The Supreme Court also noted that "The fundamental import of the privilege while an individual is in custody is not whether he is allowed to talk to the police without the benefit of warnings and counsel, but whether he can be interrogated." Criminal investigations must not be hampered in the name of reform which would occur if this amendment is passed.

The proposed amendment to HB 163 also seeks to drastically change Illinois' murder statute involving forcible felonies. Presently, if participants engage in a forcible felony other than second degree murder that results in the death of an individual, any participant in the crime can be charged with murder and held responsible for the foreseeable consequences of their actions. If passed, HB 163's proposed change in the law will no longer hold accountable participants responsible for the death unless it can be proven in court that the participant "**knew** that the other participant would engage in conduct that would result in death or great bodily harm." This new law would significantly reduce law enforcement's ability to fully hold participants responsible for violent crimes.

These examples only scratch the surface of many of the changes proposed that cannot be reconciled with the average person's views and expectations for their justice system. We

acknowledge that some criminal justice reforms are warranted. Just as we have worked with the General Assembly in the past, we will continue to work together to achieve this goal. While criminal justice reform is warranted, this attempt to pass a 611-page bill that will fundamentally change law enforcement and the criminal justice system in a five-day lame-duck session is not the way to responsibly do so.

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