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FROM: Chambers of the Chief Judge
19th Judicial Circuit
Lake County
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Date of Release: September 13, 2023
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FOR IMMEDIATE RELEASE
Waukegan, Illinois

PRETRIAL FAIRNESS ACT GOES INTO EFFECT ON SEPTEMBER 18, 2023

The Pretrial Fairness Act ([PFA](#)), a part of the SAFE-T Act, will go into effect **on Monday, September 18**, throughout Illinois—including the Nineteenth Judicial Circuit Court in Lake County. The PFA replaces “Bond Court” with “First Appearance Court” and creates a new procedure for determining whether a person charged with a crime remains in jail until trial. The new procedure is different for defendants and victims of crime—and for judges and lawyers—but not everything will change. For example, people arrested at night or on the weekends will still have court the next day (except on certain holidays).

What will change is that courts can no longer require a person to post a cash bond as a condition of their pretrial release to ensure their compliance with bond conditions. Instead, the new law provides that, depending on the charges, a person will either be held in jail or released without posting a cash bond. The PFA and SAFE-T Act presume defendants should be released and prohibit holding defendants in jail for many offenses. Under the new laws, some offenses are not detainable. If a person is charged with a non-detainable crime, the court will set pretrial release conditions as provided by law.

When a person is charged with a crime that the new laws provide could permit detaining in jail, the new laws provide that the State’s Attorney must file a “petition for detention” before a judge can hold the defendant in jail. In Lake County, this means that only when the Lake County State’s Attorney files a “petition for detention” may the court hold a hearing to determine whether a defendant should remain in jail. If the State’s Attorney chooses not to file a “petition for detention” when the crime could be detainable, the court will set pretrial release conditions like when the offense is not detainable.

When a defendant is charged with a detainable offense and the State’s Attorney does file a petition for detention, the court will hold a detention hearing. At a detention hearing, the PFA and SAFE-T Act requires the State’s Attorney to prove by “clear and convincing evidence” that the “proof is evident and the presumption great that the defendant has committed a detainable offense.” The State’s Attorney must also prove that either the defendant is a threat to a person or the community or the defendant is a flight risk and that no condition of release can negate the threat or risk of flight. If the State meets this burden, the court can order the defendant to be held in jail. The court must then assess these factors again each time the case comes up in court before trial to determine whether the defendant is required to be released.

Beginning Monday, September 18, First Appearances for defendants in custody will take place in person at the Lake County Criminal Court Building (for directions, see [here](#)) in Courtroom T-020:

- Monday through Friday: 10:00 am and 2:30 pm
- Saturday and Sunday: 9:00 am

The Public Defender or private defense counsel will be provided access to their clients at the Lake County Jail at 8:30 am for that day's 10:00 am First Appearance Court docket or 1:00 pm for that day's 2:30 pm First Appearance Court docket. The Public Defender will be appointed to all cases prior to a defendant's First Appearance unless private counsel has entered an appearance.

A legal challenge delayed implementation of these parts of the PFA and the SAFE-T Act until the Illinois Supreme Court determined their constitutionality and ordered that they go into effect **on September 18, 2023**.

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