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2023 IL 129453

IN THE

SUPREME COURT

OF

THE STATE OF ILLINOIS

(Docket No. 129453)

DAN CAULKINS *et al.*, Appellees, v. JAY ROBERT PRITZKER, in His Official Capacity as Governor of the State of Illinois, *et al.*, Appellants.

Opinion filed August 11, 2023.

JUSTICE ROCHFORD delivered the judgment of the court, with opinion.

Chief Justice Theis and Justices Neville and Cunningham concurred in the judgment and opinion.

Justice Holder White dissented, with opinion, joined by Justice Overstreet.

Justice O'Brien dissented, with opinion.

OPINION

¶ 1 The Protect Illinois Communities Act (Act) restricts firearms and related items that the Act defines as "an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge" (collectively, assault weapons) (720 ILCS 5/24-1.9(b) (West 2022)) and

"large capacity ammunition feeding device[s]," commonly known as large capacity magazines (LCMs) (*id.* § 24-1.10(b)). Certain restrictions do not apply to (1) law enforcement agencies and individuals who complete firearms training as part of their employment in law enforcement, corrections, the military, and private security (trained professionals) (*id.* §§ 24-1.9(e), 24-1.10(e)) and (2) individuals who possessed assault weapons or LCMs before the restrictions became effective (grandfathered individuals) (*id.* §§ 24-1.9(d), 24-1.10(d)).

¶ 2 The circuit court of Macon County entered declaratory judgment for plaintiffs on two claims that the restrictions are facially unconstitutional because the exemptions deny the "law-abiding public" equal protection (Ill. Const. 1970, art. I, § 2) and constitute special legislation (*id.* art. IV, § 13) under the Illinois Constitution. Defendants appeal directly to this court. Ill. S. Ct. R. 302(a)(1) (eff. Oct. 4, 2011).

¶ 3 Plaintiffs defend the judgment on equal protection and special legislation grounds and allege for the first time that, regardless of the exemptions, the restrictions violate the second amendment to the United States Constitution. U.S. Const., amend. II. They further argue that Public Act 102-1116 (eff. Jan. 10, 2023), which added sections 24-1.9 and 24-1.10 to the Criminal Code of 2012 (720 ILCS 5/1-1 *et seq.* (West 2022)), violates the three-readings requirement of the Illinois Constitution and that the circuit court erred in ruling to the contrary. Ill. Const. 1970, art. IV, § 8(d).

¶ 4 First, we hold that the exemptions neither deny equal protection nor constitute special legislation because plaintiffs have not sufficiently alleged that they are similarly situated to and treated differently from the exempt classes. Second, plaintiffs expressly waived in the circuit court any independent claim that the restrictions impermissibly infringe the second amendment. Third, plaintiffs' failure to cross-appeal is a jurisdictional bar to renewing their three-readings claim. Accordingly, we reverse the circuit court and enter judgment for defendants on the equal protection and special legislation claims. We express no opinion on the potential viability of plaintiffs' waived claim concerning the second amendment.

¶ 5 I. BACKGROUND

¶ 6 A. The Act

¶ 7 The Act amended the Criminal Code of 2012 to restrict access to assault weapons and LCMs. Pub. Act 102-1116, § 25 (eff. Jan. 10, 2023) (adding 720 ILCS 5/24-1.9, 24-1.10). The Act, effective January 10, 2023, prohibits the purchase and sale, manufacture, delivery, and import of firearms defined by the statute as "assault weapons," except sales to persons in other States or to those authorized to acquire them under the Act's enumerated exemptions for certain professionals. 720 ILCS 5/24-1.9(b) (West 2022). The Act also prohibits possession of assault weapons beginning on January 1, 2024.

¶ 8 However, the Act contains two exemptions relevant here. A "grandfather" provision permits persons who lawfully possessed assault weapons before January 10, 2023, to continue to possess them as long as they provide an endorsement affidavit to the Illinois State Police by January 1, 2024. *Id.* § 24-1.9(c), (d). Those who inherit a lawfully owned assault weapon may retain it upon providing an endorsement affidavit. *Id.* § 24-1.9(d)(2)(ii). An endorsement affidavit, which is executed electronically as a form through a Firearm Owner's Identification (FOID) card account (430 ILCS 65/4.1 (West 2022)), identifies the weapon and affirms that the individual owned it before January 10, 2023. 720 ILCS 5/24-1.9(d) (West 2022).

¶ 9 The Act also restricts the manufacture, delivery, sale, and purchase of LCMs, except the restriction on possession took effect on April 10, 2023, and the Act does not require endorsement affidavits for LCMs. *Id.* § 24-1.10(b)-(d).

¶ 10 In addition to the "grandfather" provision, the Act exempts seven enumerated classes from the restrictions on possession and purchase. Four of the exemptions apply to law enforcement agencies, peace officers, corrections officials, and active and retired law enforcement officers qualified under the federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. §§ 926B, 926C (2018)), as recognized under Illinois law. Those included in this law-enforcement exemption are required by law to receive firearms training and qualifications. 720 ILCS 5/24-1.9(e)(1)-(4), 24-1.10(e)(1)-(4) (West 2020).

¶ 11 Three other exemptions apply to members of the armed services, the reserve forces, and the Illinois National Guard; licensed private security guards; and guards at nuclear facilities, all of whom also receive firearms training by virtue of their employment. The Act permits them to possess assault weapons and LCMs, but only to the extent required by their official duties. *Id.* §§ 24-1.9(e)(5)-(7), 24-1.10(e)(5)-(7).

¶ 12 B. The Complaint

¶ 13 Plaintiffs are a business, two separately named individuals, and a voluntary unincorporated association, consisting of hundreds of individuals and businesses. All plaintiffs allege they "possess or otherwise desire to deliver, sell, import, or purchase" assault weapons as defined by section 24-1.9(a) "and/or manufacture, deliver, sell, or purchase" LCMs as defined by section 24-1.10(a).

¶ 14 Plaintiff Decatur Jewelry is a licensed pawn broker engaged in intrastate and interstate commerce involving "the sale, possession, and transfer of firearms." Decatur Jewelry, which as a pawn broker holds certain assault weapons as security, alleges sections 24-1.9 and 24-1.10 criminalize the return of those weapons to their rightful owners.

¶ 15 Dan Caulkins and Perry Lewin are residents and citizens of Illinois who also "possess or otherwise desire to deliver, sell, import, or purchase" assault weapons "and/or manufacture, deliver, sell or purchase" LCMs.

¶ 16 Law-Abiding Gun Owners of Macon County is an association of "similarly interested members associated for the purpose of protecting the Second Amendment and Property rights of law-abiding gun owners." Members must possess a valid FOID card.

¶ 17 The complaint alleged six counts seeking declaratory and injunctive relief, and the parties filed opposing motions for summary judgment. Plaintiffs moved for summary judgment only on counts IV and V, which alleged violations of the Illinois Constitution's equal protection and special legislation clauses.

¶ 18 Count IV, the equal protection claim, alleged the trained professionals are "seemingly a protected class based upon their occupations" and "are wholly exempt based on their employment status." The claim alleged that "[c]reating an exempt status for those persons is not only irrational and completely lacking anything approaching common sense, there are no set of facts wherein it can survive a constitutional attack based upon equal protection regardless of the standard of review." Count IV alleged, "At issue is the infringement of a right to bear arms as guaranteed by the Illinois Constitution" such that the restrictions "are indisputably in violation of the Plaintiffs [*sic*] equal rights to be treated the same as their fellow citizens who are similarly situated in regard to their individual and fundamental constitutional rights to bear arms for self-defense." Count IV sought a judgment declaring sections 24-1.9(a) and 24-1.10(a) unconstitutional under the equal protection clause.

¶ 19 Count V, the special legislation claim, alleged "the 2nd Amendment protects the additional right to commercial and non-commercial sale of arms," while sections 24-1.9 and 24-1.10 "create an economic franchise for those excepted from its criminal provisions to engage commerce, commercial and non-commercial, in gun sales on a broader basis not available to all who own 'assault weapons' or desire to purchase, gift, receive or sell 'assault weapons.'" Count V sought a judgment declaring sections 24-1.9 and 24-1.10 unconstitutional for creating special classifications according to the excepted class, which enjoys "an economic franchise" in violation of the special legislation clause.

¶ 20 To the extent the complaint made isolated references to the right to keep and bear arms under either the second amendment or article I, section 22, of the Illinois Constitution, it was to claim that plaintiffs, as members of the law-abiding public with valid FOID cards, are similarly situated to the exempt classes for equal protection and special legislation purposes. Neither count IV nor count V alleged the restrictions violate the second amendment.

¶ 21 C. The Judgment

¶ 22 The circuit court determined that *Accuracy Firearms, LLC v. Pritzker*, 2023 IL App (5th) 230035, ¶ 65, which had upheld a temporary restraining order on an equal protection challenge to sections 24-1.9 and 24-1.10, entitled plaintiffs to summary judgment on their equal protection and special legislation claims. The

circuit court ruled that the rights to bear arms under the state and federal constitutions are fundamental rights; therefore, the challenged legislation was subject to strict scrutiny, which the legislation did not satisfy.

¶ 23 The circuit court did not consider whether plaintiffs were similarly situated to, but treated differently from, the exempt classes. Instead, the circuit court ruled the restrictions (1) denied plaintiffs equal protection by infringing on their gun rights (count IV) and (2) constituted special legislation by conferring an arbitrary right upon those eligible for the exception while excluding plaintiffs (count V). The court entered judgment for defendants on the remaining counts, including plaintiffs' claim that the Act violates the three readings clause of the Illinois Constitution. Ill. Const. 1970, art. IV, § 8(d).

¶ 24 Defendants filed a notice of direct appeal under Illinois Supreme Court Rule 302(a)(1) (eff. Oct. 4, 2011). We granted the state's attorneys of 33 counties leave to submit a brief *amici curiae* in support of plaintiffs, pursuant to Illinois Supreme Court Rule 345 (eff. Sept. 20, 2010).

¶ 25 II. ANALYSIS

¶ 26 A. Standard of Review

¶ 27 This appeal arises from plaintiffs' summary judgment motion for declaratory relief on the equal

protection and special legislation claims. 735 ILCS 5/2-701(a) (West 2022).

> "[S]ummary judgment should be granted only where the pleadings, depositions, admissions and affidavits on file, when viewed in the light most favorable to the nonmoving party, show that there is no genuine issue as to any material fact and that the moving party is clearly entitled to judgment as a matter of law." *Pielet v. Pielet*, 2012 IL 112064, ¶ 29.

See 735 ILCS 5/2-1005 (West 2022). We review a summary judgment *de novo*. *Pielet*, 2012 IL 112064, ¶ 30.

¶ 28 We also review a constitutional challenge to a statute *de novo* because it presents a question of law. *People v. Masterson*, 2011 IL 110072, ¶ 23. Legislative enactments have a strong presumption of constitutionality, and this court must uphold the constitutionality of a statute when reasonably possible. *Id.* Plaintiffs, who are on the side challenging the constitutionality of sections 24-1.9 and 24-1.10 of the Act, bear the burden to prove the statutes' invalidity. *Id.*

¶ 29 Plaintiffs mount a facial challenge, which is the most difficult type of constitutional challenge. An enactment is invalid on its face only if no set of circumstances exists under which it would be valid. *People v. One 1998 GMC*, 2011 IL 110236, ¶ 20. A facial challenge requires a showing that the statute is unconstitutional under any set of facts; the specific facts related to the challenging party are irrelevant. *People v. Garvin*, 219 Ill. 2d 104, 117 (2006).

¶ 30 B. The Second Amendment

¶ 31 As a preliminary matter, we address plaintiffs' argument that, regardless of how the exemptions implicate equal protection and special legislation, the restrictions themselves violate the right to keep and bear arms under the second amendment to the United States Constitution (U.S. Const., amend. II). Notably, plaintiffs do *not* assert the restrictions violate the corresponding right to arms set forth in article I, section 22, of the Illinois Constitution (Ill. Const. 1970, art. I, § 22). Plaintiffs' references to the Illinois right to arms are isolated and made only in opposition to subjecting the classifications to rational-basis scrutiny in the equal protection context. Plaintiffs contend in their brief that the second amendment—not article I, section 22—provides an independent basis for affirming the judgment.

¶ 32 Plaintiffs frame the second amendment as a threshold issue, asserting that, if the right to keep and bear arms does not tolerate the restrictions, the court need not decide whether the exemptions deny equal protection or constitute special legislation. Citing the principle that a reviewing court may sustain the decision of the circuit court on any grounds called for by the record (*Landmarks Preservation Council of Illinois v. City of Chicago*, 125 Ill. 2d 164, 174 (1988)), plaintiffs ask this court to affirm the summary judgment because defendants did not demonstrate that the restrictions are consistent with the historical tradition of firearm regulation.

¶ 33 The second amendment states, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." U.S. Const., amend. II. "At its core, the second amendment protects the right of law-abiding citizens to keep and bear arms for self-defense in the home." *Guns Save Life, Inc. v. Ali*, 2021 IL 126014, ¶ 28 (citing *District of Columbia v. Heller*, 554 U.S. 570, 635 (2008)). The United States Supreme Court has stated, "it is clear that the Framers and ratifiers of the Fourteenth Amendment counted the right to keep and bear arms among those fundamental rights necessary to our system of ordered liberty." *McDonald v. City of Chicago*, 561 U.S. 742, 778 (2010); *Johnson v. Department of State Police*, 2020 IL 124213, ¶ 37.

¶ 34 Unlike equal protection, the second amendment does not concern the end that the government seeks to achieve and whether the means of doing so is an appropriate fit. See *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 507 U.S. ___, ___, 142 S. Ct. 2111, 2127 (2022). Instead, second amendment claims involve a fact-intensive inquiry asking (1) whether a plaintiff has shown that the regulated items fall in the category of "bearable arms" (*id.* at ___, 142 S. Ct. at 2132) that are "commonly used" for self-defense today (*id.* at ___, 142 S. Ct. at 2138) and, if so, (2) whether the restrictions are consistent with "this Nation's historical tradition of firearm regulation" (*id.* at ___, 142 S. Ct. at 2126).

¶ 35 For two reasons, these issues were never raised or considered below. First, plaintiffs omitted a second

amendment claim from the complaint and expressly disclaimed it in their pleadings. Second, equal protection and second amendment challenges are analyzed under different standards.

¶ 36 A summary judgment motion is confined to the issues raised in the complaint, and a plaintiff may not raise new issues not pleaded in his complaint to support or defeat a motion for summary judgment. *800 South Wells Commercial LLC v. Cadden*, 2018 IL App (1st) 162882, ¶ 43; *Filliung v. Adams*, 387 Ill. App. 3d 40, 51-52 (2008) (the purpose of a complaint is to define the claims in controversy, and if a party does not seek to amend his complaint, he cannot raise new claims in a summary judgment motion); *Steadfast Insurance Co. v. Caremark Rx, Inc.*, 373 Ill. App. 3d 895, 900 (2007) ("A party cannot seek summary judgment on a theory that was never pled in the complaint.").

¶ 37 The complaint did not allege the restrictions violate the second amendment to the United States Constitution, and none of the six counts were labeled that way. Counts I and II sought a declaratory judgment that the Act violates the Illinois Constitution's single-subject rule and three-readings requirement, respectively. Ill. Const. 1970, art. IV, § 8(d). Count III sought a declaratory judgment that the legislature's noncompliance with these rules denied plaintiffs due process. *Id.* art. I, § 2. Count VI alleged Decatur Jewelry had suffered a due process violation and a regulatory taking. And the complaint generally requested an injunction to enjoin enforcement of sections 24-1.9 and 24-1.10. Plaintiffs did not move for summary judgment

on any of these claims, and none can be liberally construed as alleging a violation of the second amendment. *Bryson v. News America Publications, Inc.*, 174 Ill. 2d 77, 110 (1996) ("A complaint must be liberally construed, to the end that controversies may be quickly and finally determined according to the substantive rights of the parties."); 735 ILCS 5/1-106 (West 2022).

¶ 38 The complaint mentioned the second amendment and article I, section 22, only in passing. Count IV cited article I, section 22, as it pertains to equal protection, and count V cited the second amendment as it pertains to special legislation. Both counts alleged the exemptions are subject to strict scrutiny because they impact a fundamental right. But invoking the right to keep and bear arms in the context of scrutinizing the Act's classifications is not the same as alleging the restrictions violate the second amendment. Plaintiffs directed counts IV and V at the exemptions, not the restrictions themselves.

¶ 39 Furthermore, plaintiffs repeatedly disclaimed any second amendment violation. First, they explained in their memorandum for injunctive relief that "[t]his current litigation is *not* testing the contours of [weapons'] classification, *per se*—that debate is engaged in federal court—and a more fact intensive dispute regarding historical understandings of the Second Amendment." (Emphasis added.)

¶ 40 Second, plaintiffs' summary judgment motion invoked the second amendment only to demonstrate they were similarly situated to the exempted classes

for equal protection purposes. Acknowledging the difference between the equal protection clause and the second amendment, plaintiffs asserted "The question presented is *not* whether a weapon classification survives constitutional challenge. Rather, the question presented is whether citizens qualified to acquire and possess firearms and firearm ammunition can be treated differently in the application of the weapon classification." (Emphasis added.)

¶ 41 Plaintiffs made clear below that this dispute concerns equal protection and special legislation, but plaintiffs now attempt to piggyback a second amendment claim onto those allegations to circumvent the fact-intensive *Bruen* analysis. The theory under which a case is tried in the circuit court cannot be changed on review, and an issue not presented to or considered by the circuit court cannot be raised for the first time on review. *In re Marriage of Schneider*, 214 Ill. 2d 152, 172 (2005). Allowing a party to change his theory of the case on review would weaken the adversarial process and the system of appellate jurisdiction and could also prejudice the opposing party, who did not have an opportunity to respond to that theory in the circuit court. *Id.*

¶ 42 The record demonstrates plaintiffs omitted a stand-alone second amendment claim from the complaint and expressly disclaimed it in the circuit court, resulting in waiver. Allowing plaintiffs to argue a novel theory that was neither pleaded nor argued below would prejudice defendants and amount to improper advocacy on plaintiffs' behalf. Plaintiffs chose not to

present their case to the circuit court in second amendment terms, and we hold them to their decision. Plaintiffs are procedurally barred from challenging the weapon classification as violating the second amendment.

¶ 43 Moreover, even if we accepted plaintiffs' distorted view of the complaint or excused their unambiguous waiver, genuine questions of material fact would preclude summary judgment on a second amendment claim. Ascertaining whether the restrictions unconstitutionally infringe on the public's right to keep and bear arms requires consideration of whether the regulated items are bearable arms that are commonly used for self-defense and whether the regulations are consistent with this nation's historical traditions. Unsurprisingly, the record contains no evidence—beyond news articles—relevant to these questions because plaintiffs never raised them in the circuit court. Even if the complaint alleged a second amendment claim, the record does not support affirming the judgment on that basis. As plaintiffs expressly disclaimed a second amendment claim below, we offer no opinion on the potential viability of such a claim.

¶ 44 C. Equal Protection and Special Legislation

¶ 45 This appeal concerns plaintiffs' assertion that the exemptions in sections 24-1.9 and 24-1.10 deny them equal protection. Article I, section 2, of the Illinois Constitution states that "[n]o person shall be deprived of life, liberty or property without due process

of law nor be denied the equal protection of the laws." Ill. Const. 1970, art. I, § 2.

¶ 46 The equal protection clause guarantees that similarly situated individuals will be treated in a similar manner, unless the government can demonstrate an appropriate reason to treat those individuals differently. *In re M.A.*, 2015 IL 118049, ¶ 24. The equal protection clause does not forbid the legislature from drawing distinctions in legislation among different categories of people as long as the legislature does not draw those distinctions based on criteria wholly unrelated to the legislation's purpose. *Id.* The analysis applied to equal protection claims is the same under both the United States and Illinois Constitutions. *Jacobson v. Department of Public Aid*, 171 Ill. 2d 314, 322 (1996).

¶ 47 The threshold question in the equal protection analysis is whether the claimant is "similarly situated" to the comparison group. "'Evidence of different treatment of unlike groups does not support an equal protection claim.'" *M.A.*, 2015 IL 118049, ¶ 25 (quoting *In re Derrico G.*, 2014 IL 114463, ¶ 92). Two classes are similarly situated only when they are alike in all relevant respects. *Id.* ¶¶ 25, 33; *In re Destiny P.*, 2017 IL 120796, ¶ 15.

¶ 48 The determination of whether two classes are similarly situated is not made in the abstract. Rather, the court must consider the purpose of the particular legislation. *M.A.*, 2015 IL 118049, ¶¶ 26, 29. Assessing similarity

> "is not a contextless comparison of the classes within the broader group. To meaningfully assess whether a claimant is similarly situated to all others in all relevant respects, we examine the positions of the claimant and all others in light of the broad purpose and operation of the statute. Whether a claimant is 'similarly situated' to other persons cannot be decided based solely on the very classification challenged as violating equal protection. Stated another way, a classification does not pass equal protection muster simply because the Legislature created two classes. To do so would beg the question and render the equal protection principle meaningless." *Fletcher Properties, Inc. v. City of Minneapolis*, 947 N.W.2d 1, 22 (Minn. 2020).

¶ 49 The special legislation clause supplements the equal protection clause, and in many cases, the two clauses provide the same protection. *In re Estate of Jolliff*, 199 Ill. 2d 510, 519 (2002). The legislature enjoys broad discretion in making statutory classifications, but the special legislation clause prohibits the legislature from conferring a benefit or privilege upon one group while excluding other similarly situated groups. *Id.* The special legislation clause is intended to prevent legislative classifications without a sound and reasonable basis from discriminating in favor of a select group. *Id.* Plaintiffs concede the equal protection analysis in this action also applies to their special legislation challenge, as a special legislation challenge is generally judged under the same standards that apply to an equal protection challenge. *Moline School*

District No. 40 Board of Education v. Quinn, 2016 IL 119704, ¶ 24.

¶ 50 1. Legislative Purpose

¶ 51 To assess whether plaintiffs are similarly situated to but treated differently from the exempt groups, we examine the relative positions of the two classes in light of the broad purpose and operation of the statute. The Act does not state a legislative purpose motivating the restrictions and exemptions in section 24-1.9 and 24-1.10. Defendants infer from the statutory scheme that the Act is intended to reduce the number of assault weapons and LCMs in circulation because they are often used by perpetrators of mass shootings.

¶ 52 Plaintiffs respond that inferring a legislative purpose where none is expressed amounts to improper speculation. They rely on *Accuracy Firearms*, which held the legislature's failure to articulate an express legislative purpose for the Act obviated the requirement for the equal-protection claimants to allege they were similarly situated to the exempt groups. *Accuracy Firearms*, 2023 IL App (5th) 230035, ¶ 61. The majority held,

> "Here, it is extremely relevant that no purpose of the legislation and no basis for the classifications was provided at the time plaintiffs' pleadings were filed. As such, any allegation regarding similarity would be speculative, at best. *** As the basis for the exempted classification was unavailable, it is undeniable that a specific allegation as to how any

> plaintiff might be similarly situated to one of the exempted classes would be pure conjecture, beyond the fact that each plaintiff and all those now in an exempted class were similarly situated, and indeed possessed the same rights, prior to January 23, 2023." *Id.*

¶ 53 The *Accuracy Firearms* court was misguided in dispensing with the threshold question of whether the equal-protection claimants were similarly situated to the exempt groups. It is axiomatic that an equal-protection claimant must show he is similarly situated to the comparison group, and assessing the similarity requires an analysis of the legislation's purpose. *Masterson*, 2011 IL 110072, ¶ 25. Sometimes, the legislative purpose is unclear, but that does not excuse the claimant from showing similarity. Justice Powell once observed in the equal protection context that "a legislative body rarely acts with a single mind" and "compromises blur purpose." *Schweiker v. Wilson*, 450 U.S. 221, 244 n.6 (1981) (Powell, J., dissenting, joined by Brennan, Marshall, and Stevens, JJ.). "Therefore, it is appropriate to accord some deference to the executive's view of legislative intent, as similarly we accord deference to the consistent construction of a statute by the administrative agency charged with its enforcement." *Id.* "Ascertainment of actual purpose to the extent feasible, however, remains an essential step in equal protection." *Id.*

¶ 54 When assessing a claimant's similarity to the comparator class, a court may glean legislative purpose from the statutory scheme and the classifications

themselves. See *Weinberger v. Wiesenfeld*, 420 U.S. 636, 648 n.16 (1975) (an examination of the legislative scheme and its history may demonstrate that the purpose asserted by the government could not have been a goal of the legislation).

¶ 55 Here, the trained professionals comprise seven enumerated categories of individuals who are exempt from the purchase and possession restrictions based on their employment status and training. Four of the exemptions apply to law enforcement agencies, peace officers, corrections officials, and certain current and retired law enforcement officers. Those who qualify are required by law to receive firearms training and qualifications. 720 ILCS 5/24-1.9(e)(1)-(4), 24-1.10(e)(1)-(4) (West 2022).

¶ 56 Specifically, the restrictions on the purchase or possession of assault weapons and LCMs do not apply to "'Peace officers'" (*id.* §§ 24-1.9(e)(1), 24-1.10(e)(1)), who are defined as

> "(i) any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses, or (ii) any person who, by statute, is granted and authorized to exercise powers similar to those conferred upon any peace officer employed by a law enforcement agency of this State" (*id.* § 2-13).

¶ 57 The exemption also applies to "Qualified law enforcement officers and qualified retired law enforcement

officers," defined under the federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. §§ 926B, 926C (2018)), as recognized under Illinois law, as employees of a governmental agency who are (or were) authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and has statutory powers of arrest or apprehension under section 807(b) of Title 10 of the United States Code (article 7(b) of the Uniform Code of Military Justice) (10 U.S.C. § 807(b) (2018)). 720 ILCS 5/24-1.9(e)(2), 24-1.10(e)(2) (West 2022). Qualified law enforcement officers must be authorized by the agency to carry a firearm, must not be the subject of any disciplinary action that could result in suspension or loss of police powers, must meet agency standards that require the employee to regularly qualify in the use of a firearm, must not be under the influence of alcohol or another intoxicating or hallucinatory drug or substance, and must not be prohibited by federal law from receiving a firearm. 18 U.S.C. § 926B (2018). Qualified retired law enforcement officers, though no longer authorized to engage in law enforcement, must have met these requirements before their separation from service, and they are further defined in part as having 10 years' aggregate service and continuing to maintain, at their expense, training on the standards for qualification in firearms for active law enforcement officers. *Id.* § 926C.

¶ 58 The exemption similarly allows acquisition and possession of restricted items by federal, state, or local law enforcement agencies for the purpose of equipping

peace officers, qualified law enforcement officers, and qualified retired law enforcement officers. 720 ILCS 5/24-1.9(e)(3), 24-1.10(e)(3) (West 2022). Finally, the exemption applies to wardens, superintendents, and keepers of prisons, penitentiaries, and jails. *Id.* §§ 24-1.9(e)(4), 24-1.10(e)(4).

¶ 59 Three other exempt classes include members of the armed services, reserve forces of the United States, or the Illinois National Guard; licensed private security guards and their employers; and guards at nuclear facilities, who all receive firearms training by virtue of their employment. *Id.* §§ 24-1.9(e)(5)-(7), 24-1.10(e)(5)-(7). The Act permits these three groups to possess assault weapons and LCMs, but only while "performing their official duties." *Id.* §§ 24-1.9(e)(5)-(7), 24-1.10(e)(5)-(7).

¶ 60 The Act's grandfather provision permits persons who lawfully possessed an assault weapon before January 10, 2023, to continue to possess it as long as they provide an endorsement affidavit. *Id.* § 24-1.9(d). The affidavit must contain the person's FOID card number and an affirmation that the affiant possessed the assault weapon before the Act's effective date or inherited the assault weapon from an authorized person. *Id.* The provision restricts the transfer of an assault weapon to only an heir, an individual residing in another state and maintaining it in another state, or a federally licensed firearms dealer. *Id.* The grandfather provision similarly permits possession and restricts transfer of LCMs, but an endorsement affidavit is not required. *Id.* § 24-1.10(d).

¶ 61 The grandfather provision restricts where assault weapons and LCMs may be taken. A grandfathered individual may possess the restricted items only (1) on private property owned or immediately controlled by the person; (2) on private property that is not open to the public with the express permission of the person who owns or immediately controls such property; (3) while on the premises of a licensed firearms dealer or gunsmith for the purpose of lawful repair; (4) while engaged in the legal use of the assault weapon or LCM at a properly licensed firing range or sport shooting competition venue; or (5) while traveling to or from these locations, provided that the assault weapon or LCM is stored unloaded and enclosed in a case, firearm carrying box, shipping box, or other container. *Id.* §§ 24-1.9(d), 24-1.10(d).

¶ 62 Although the legislature did not state an express goal of the Act, the statutory scheme plainly implements firearms restrictions in furtherance of public health, safety, and welfare, with exceptions for those (1) who have undertaken specialized training as part of their employment in law enforcement, the military, or security or (2) who have a reliance interest in retaining possession of items legally acquired before such acquisition was prohibited and who adhere to new restrictions on possession and transfer. The Act attempts to balance public safety against the expertise of the trained professionals and the expectation interests of the grandfathered individuals.

¶ 63 The restrictions and exemptions are consistent with defendants' representation that "the Act seeks to

accomplish the legislative goal of reducing the number of assault weapons and LCMs in circulation, because they are often used by perpetrators of mass shootings," and the method of accomplishing that goal is "limiting the number of firearms and magazines most likely to result in a mass shooting—by restricting the sale, purchase, and possession of new ones." This legislative purpose informs our analysis of whether plaintiffs have alleged they are similarly situated to but treated differently from the exempt groups.

¶ 64 2. The Trained Professionals

¶ 65 Plaintiffs argue they were denied equal protection because "[t]he facial classification under the Act criminalizes acquisition or possession by some law-abiding citizens qualified to acquire or possess a firearm/bearable arm under the Second Amendment and immunizes from criminal penalty other law-abiding citizens qualified to acquire or possess under the Second Amendment. All are FOID card holders."

¶ 66 Plaintiffs also make a parallel argument that the statutes constitute special legislation. Plaintiffs contend "the similarly situated comparator here are law-abiding gun-owners holding valid FOID cards qualified to acquire or possess firearms (bearable arms) in the home for defense under the preexisting fundamental right codified by the Second Amendment."

¶ 67 Plaintiffs' position is that as "law-abiding gun owners" they are similarly situated to the trained professionals because "[a]ll are FOID card holders" with

second amendment rights. Plaintiffs' position has intuitive appeal, but an examination of the FOID Act's requirements demonstrates plaintiffs and the trained professionals are not similar in all relevant respects. See 430 ILCS 65/0.01 *et seq.* (West 2022).

¶ 68 A FOID card applicant must submit to the Illinois State Police evidence of eligibility, based on his or her age, citizenship, criminal history, and several other factors. See *id.* § 4(a). But FOID card eligibility does not entail any kind of firearms training or qualification in furtherance of public safety. A FOID card holder does not have a duty to maintain public order; to make arrests for offenses; or to prevent, detect, investigate, prosecute, or incarcerate a person for a violation of law. By contrast, each of the seven categories of trained professionals must undergo specialized firearms training pertaining to their employment to maintain their exempt status under the Act. This training supports the presumption that they exercise greater responsibility in the safe handling and storage of firearms. "The charge of protecting the public, and the training that accompanies that charge, is what differentiates the exempted personnel from the rest of the population." *Shew v. Malloy*, 994 F. Supp. 2d 234, 252 (D. Conn. 2014), *aff'd in part and rev'd in part sub nom. New York State Rifle & Pistol Ass'n v. Cuomo*, 804 F.3d 242 (2d Cir. 2015). "Similarly, members of the military and government agency personnel who use the otherwise banned firearms and magazines in the course of their employment should also have an advantage while maintaining public safety *** ." *Id.* Because

FOID card holders are not similar in all relevant respects to the trained professionals, plaintiffs have not sufficiently alleged the similarly situated element, and their equal protection and special legislation challenges to the classification fail.

¶ 69 3. The Grandfathered Individuals

¶ 70 Plaintiffs next argue they are denied equal protection because the grandfathered individuals are afforded preferential treatment. Plaintiffs and the grandfathered individuals can retain their previously acquired restricted items but may acquire no more. Plaintiffs allege they "possess or desire to" acquire additional assault weapons and LCMs as prohibited by sections 24-1.9 and 24-1.10 of the Act.

¶ 71 The complaint alleges plaintiffs' possession in the disjunctive. To the extent plaintiffs allege they do *not* already possess restricted items, they are prohibited from acquiring new ones, while the grandfathered individuals may retain theirs. But unlike plaintiffs who do not already possess restricted items, the grandfathered individuals have a reliance interest based on their acquisition before the restrictions took effect. By pointing out that those who already possess restricted items may retain them under the grandfather provision, the complaint makes clear that plaintiffs are not similarly situated to the exempt class. See *Purze v. Village of Winthrop Harbor*, 286 F.3d 452, 455 (7th Cir. 2002) (holding, in a challenge to a zoning decision, that the plaintiff was not similarly situated to others who

received different treatment for different reasons); *Jucha v. City of North Chicago*, 63 F. Supp. 3d 820, 831 (N.D. Ill. 2014) (grandfather provision rendered the claimant dissimilar to the comparator).

¶ 72 To the extent plaintiffs allege they already possess restricted items, plaintiffs may retain them but may not acquire more, which matches the restrictions placed on those who are grandfathered under the Act. The statutes treat plaintiffs who already possess assault weapons and LCMs the same as the grandfathered individuals.

¶ 73 Plaintiffs also argue "[t]he grandfathered possess the assault weapon because of the codified preexisting fundamental right to keep and bear arms for self-defense at home, not because of a legislative act upon which reliance was placed." Plaintiffs essentially contend the restrictions infringe plaintiffs' second amendment rights, while the exemptions protect the grandfathered individuals' second amendment rights. This is tantamount to arguing the restrictions violate the second amendment, which plaintiffs expressly disclaimed below.

¶ 74 Plaintiffs' equal protection challenge to the grandfather provision lacks merit, and by the same token, plaintiffs' special legislation claim fails because sections 24-1.9 and 24-1.10 do not improperly discriminate in favor of the grandfathered group and against plaintiffs.

¶ 75 D. Three Readings

¶ 76 Finally, plaintiffs argue count II of their complaint provides an independent basis for affirming the judgment. Count II alleged that Public Act 102-1116, which added sections 24-1.9 and 24-1.10 to the Criminal Code of 2012, violates the three-readings requirement of the Illinois Constitution. The Constitution provides a "bill shall be read by title on three different days in each house." Ill. Const. 1970, art. IV, § 8(d). Count II alleged that the legislature did not follow this procedure and that therefore the Act should be invalidated in its entirety. See *Friends of the Parks v. Chicago Park District*, 203 Ill. 2d 312, 328 (2003) (three readings violation would invalidate entire public act).

¶ 77 As mentioned, a reviewing court may affirm the judgment on any grounds called for by the record, regardless of whether the circuit court made its decision on the proper ground. *Landmarks Preservation Council of Illinois*, 125 Ill. 2d at 174. But a party seeking to modify a partially adverse judgment must file a cross-appeal within 30 days of the judgment. *Id.* ("findings of the circuit court adverse to the appellee do not require that the appellee cross-appeal if the judgment of the circuit court was not, at least in part, against him"); *Material Service Corp. v. Department of Revenue*, 98 Ill. 2d 382, 387 (1983) (an appellee's failure to cross-appeal from the part of the judgment denying a claim for interest precluded consideration of the issue); see Ill. S. Ct. R. 303(a)(3) (eff. July 1, 2017).

¶ 78 Here, the circuit court invalidated sections 24-1.9 and 24-1.10 but upheld the remainder of the Act, including provisions that are unrelated to this action. Besides adding sections 24-1.9 and 24-1.10, Public Act 102-1116 amended section 2605-35 of the Illinois State Police Law of the Civil Administrative Code of Illinois to clarify that the Division of Criminal Investigation may investigate human trafficking, illegal drug trafficking, and illegal firearms trafficking. See Pub. Act 102-1116, § 5 (eff. Jan. 10, 2023) (amending 20 ILCS 2605/2605-35(a)(7)). Public Act 102-1116 also amended section 1-10 of the Illinois Procurement Code to exempt the Illinois State Police's purchase of software to enforce the Firearm Owners Identification Card Act (430 ILCS 65/0.01 *et seq.* (West 2022)) and related statutes. See Pub. Act 102-1116, § 7 (eff. Jan. 10, 2023) (adding 30 ILCS 500/1-10(b)(21)). And Public Act 102-1116 amended sections 40, 45, and 55 of the Firearms Restraining Order Act to increase the initial duration of such orders to up to one year. See Pub. Act 102-1116, § 15 (eff. Jan. 10, 2023) (amending 430 ILCS 67/40, 45, 55).

¶ 79 The judgment was partially adverse to plaintiffs because it did not invalidate the entire Act as requested in count II. Plaintiffs' failure to cross-appeal from the part of the judgment denying relief on their three-readings claim is a jurisdictional bar to them arguing the Act is unconstitutional on that basis. *Landmarks Preservation Council of Illinois*, 125 Ill. 2d at 174.

¶ 80 III. CONCLUSION

¶ 81 First, we hold the circuit court erroneously entered summary judgment for plaintiffs on their equal protection and special legislation claims. Plaintiffs are not similarly situated to the trained professionals. To the extent plaintiffs claim they possess restricted items, they are not treated differently from the grandfathered individuals. To the extent plaintiffs claim they do *not* possess restricted items, they are dissimilar to the grandfathered individuals, who have a reliance interest in retaining them.

¶ 82 Second, we hold that plaintiffs waived any second amendment challenge to the restrictions, as the complaint did not state a claim and plaintiffs explicitly and repeatedly disclaimed any such argument in the circuit court. Third, we hold plaintiffs' failure to cross-appeal from the denial of relief under count II bars them from renewing their three-readings claim here. For these reasons, the judgment of the circuit court of Macon County is reversed.

¶ 83 Judgment reversed.

¶ 84 Justice HOLDER WHITE, dissenting:

¶ 85 This great nation was founded on the premise that the right of law-abiding citizens to bear arms is essential to what it means to be a free people. The right of law-abiding citizens to possess firearms and to arm themselves to protect their families, their homes, and

themselves must not be infringed. Belief in the previously mentioned precepts in no way diminishes the fact that all law-abiding citizens desire safe communities where schools, workplaces, houses of worship, and public gatherings are free from gun violence. The tension between the previously mentioned tenets are why this case is of such importance to the people of the state of Illinois. However, if this court is to adhere to the Illinois Constitution, we cannot address the question of the firearm restrictions at issue in this case. Important as this case is, constitutionally embedded process matters. Where the legislature fails to honor our constitutionally mandated process, this court is duty bound to adhere to our constitution and require the legislature to do the same. In my view, this court can and should consider the issue of the three-readings rule as well as the continued adherence to the enrolled-bill doctrine. In doing so, I would find the clear violation of the rule renders Public Act 102-1116 (eff. Jan. 10, 2023) unconstitutional in its entirety, thereby obviating the need to address the firearm restrictions at issue in this appeal. Thus, I respectfully dissent.

¶ 86 A. Plaintiffs' Claim on the Three-Readings Rule

¶ 87 As the majority notes and as this court has often found, "a reviewing court can uphold the decision of the circuit court on any grounds which are called for by the record regardless of whether the circuit court relied on the grounds and regardless of whether the circuit court's reasoning was correct." *Ultsch v. Illinois*

Municipal Retirement Fund, 226 Ill. 2d 169, 192 (2007); see also *Material Service Corp. v. Department of Revenue*, 98 Ill. 2d 382, 387 (1983) (stating "[i]t is the judgment and not what else may have been said by the lower court that is on appeal to a court of review").

¶ 88 In this case, plaintiffs alleged in count II of their complaint that Public Act 102-1116, which added sections 24-1.9 and 24-1.10 to the Criminal Code of 2012 (720 ILCS 5/24-1.9, 1.10 (West 2022)), violated the three-readings requirement of the Illinois Constitution. In their summary judgment motion, defendants argued they were entitled to summary judgment on the three-readings claim because the enrolled-bill doctrine foreclosed plaintiffs' challenge. The circuit court entered judgment in defendants' favor on the three-readings claim, as it was duty bound to follow this court's precedent involving the enrolled-bill doctrine. The court did, however, find in plaintiffs' favor on their equal protection and special legislation claims.

¶ 89 Defendants appealed. In light of the circuit court's favorable ruling on the three-readings rule, they had no reason to raise the issue in their initial brief. Plaintiffs, however, did raise this issue in their responsive brief, arguing the violation of the three-readings rule presented an independent basis in the record to affirm the circuit court's judgment. In their reply brief, defendants argued there was no violation of the three-readings rule and the enrolled-bill doctrine foreclosed plaintiffs' challenge. Defendants also addressed the three-readings rule and the enrolled-bill doctrine in their oral argument to this court.

¶ 90 The majority says the circuit court invalidated certain sections of the Protect Illinois Communities Act (Act) (see Pub. Act 102-1116 (eff. Jan. 10, 2023)) and upheld others and thus contends the three-readings-rule issue is not now before us because plaintiffs should have cross-appealed from the denial of relief on that claim. However, plaintiffs are properly before this court, and both parties have had ample opportunity to address the procedural requirements of the Illinois Constitution and their impact on the validity of the Act here. Moreover, if the invalidated sections are before us (by way of the State's appeal), then a finding of a three-readings-rule violation on those sections (as we may affirm on any basis in the record) requires a similar finding as to the entire Act because the Act was passed as one. Thus, I would find the long-standing principle cited above in *Ultsch* and numerous other cases allows us to consider the three-readings issue.

¶ 91 B. The Three-Readings Rule and the Enrolled-Bill Doctrine

¶ 92 Article IV, section 8, of the Illinois Constitution (Ill. Const. 1970, art. IV, § 8) sets forth the requirements for the passage of bills in the legislature. Section 8(d) states as follows:

> "(d) *A bill shall be read by title on three different days in each house.* A bill and each amendment thereto shall be reproduced and placed on the desk of each member before final passage.

> Bills, except bills for appropriations and for the codification, revision or rearrangement of laws, shall be confined to one subject. Appropriation bills shall be limited to the subject of appropriations.
>
> A bill expressly amending a law shall set forth completely the sections amended.
>
> *The Speaker of the House of Representatives and the President of the Senate shall sign each bill that passes both houses to certify that the procedural requirements for passage have been met.*" (Emphases added.) Id. § 8(d).

¶ 93 For years, this court has followed the enrolled-bill doctrine. *Friends of the Parks v. Chicago Park District*, 203 Ill. 2d 312, 328 (2003). "This doctrine provides that once the Speaker of the House of Representatives and the President of the Senate certify that the procedural requirements for passing a bill have been met, a bill is conclusively presumed to have met all procedural requirements for passage." *Id.* at 328-29. Under this precedent, this court has said it "will not invalidate legislation on the basis of the three-readings requirement if the legislation has been certified." *Id.* at 329.

¶ 94 In *People v. Dunigan*, 165 Ill. 2d 235, 252 (1995), the defendant argued the public act at issue was not validly enacted because the legislature failed to comply with the three-readings requirement. This court refused to consider the argument, concluding the enrolled-bill doctrine precluded "this court from inquiring into the legislature's compliance with the

procedural requirements for passage of bills." *Id.* at 253. This court cited the Committee on the Legislature of the Constitutional Convention, which explained the enrolled-bill doctrine would prohibit the judiciary from invalidating statutes on the ground that the legislature failed to comply with the procedural requirements in article IV, section 8, of the Illinois Constitution. *Id.* The court went on to state: "Whether or not a bill has been read by title on three different days in each house is a procedural matter, the determination of which was deliberately left to the presiding officers of the two houses of the General Assembly." *Id.* at 254.

¶ 95 Justice Heiple dissented from that portion of the majority opinion that adopted and relied on the enrolled-bill doctrine. *Id.* at 256-58 (Heiple, J., concurring in part and dissenting in part). He stated, in part, as follows:

> "The interpretation of a constitutional provision depends, in the first instance, on the plain meaning of its language. Next, it depends on the common understanding of the citizens who, by ratifying the constitution, have given it life. A court looks to the debates of the convention delegates only when a constitutional provision is ambiguous. (*Kalodimos v. Village of Morton Grove* (1984), 103 Ill. 2d 483, 492-93.) There is no ambiguity in the provision requiring the legislature to read a bill on three different days in each house, the provision that a bill receive a majority vote in each house, or the provision requiring the Speaker of the House and the President of the Senate

to sign each bill to certify that the procedural requirements for passage have been met.

If it were deemed desirable to foreclose inquiries into the regularity of the passage of bills, language similar to the enrolled-bill doctrine could have been included within the constitution. There is no such language. Moreover, the Illinois Constitution was adopted at a referendum. It did not become the law of the State by either the discussions of the delegates or by their votes. The constitutional convention merely submitted the document to the public for a vote. There is no way that a voter could interpret the language of the constitution to mean that procedural requirements for the passage of a bill could be overridden by the signatures of two State officers. In truth, the signatures of the officers are merely *prima facie* evidence that the General Assembly has abided by the requirements of the constitution. In other words, it raises a rebuttable presumption that the requirements for passage have been met.

A literal adherence to this so-called enrolled-bill doctrine means that a bill need never be read or presented in either house, need never receive a majority vote, and need never even be voted on. Two people, the Speaker of the House and the President of the Senate, need merely sign and certify a bill and, unless vetoed by the Governor pursuant to article IV, section 9, the bill becomes *ipso facto* the law of Illinois. Contrary to today's ruling, I believe that the constitutional

> requirements for the enactment of a bill should be followed and enforced. While separation of powers is a valid doctrine and a presumption of legislative regularity is its proper corollary, this court should reserve the right of review to ensure the General Assembly's compliance with constitutional mandates." *Id.* at 257-58.

¶ 96 Since that case, this court has noted the legislature has "shown remarkably poor self-discipline in policing itself in regard to the three-readings requirement." *Friends of the Parks*, 203 Ill. 2d at 329 (citing *Geja's Cafe v. Metropolitan Pier & Exposition Authority*, 153 Ill. 2d 239, 260 (1992) (noting that "ignoring the three-readings requirement has become a procedural regularity"); *Cutinello v. Whitley*, 161 Ill. 2d 409, 425 (1994). That lack of legislative self-discipline continues to this day. See *Orr v. Edgar*, 298 Ill. App. 3d 432, 447 (1998) (leaving to this court "the issue of whether the state legislature may disregard constitutional requirements and maintain the legality of its actions under the auspices of the enrolled bill doctrine"); *New Heights Recovery & Power, LLC v. Bower*, 347 Ill. App. 3d 89, 100 (2004); *McGinley v. Madigan*, 366 Ill. App. 3d 974, 992 (2006); *Doe v. Lyft, Inc.*, 2020 IL App (1st) 191328, ¶¶ 51-55; *Accuracy Firearms, LLC v. Pritzker*, 2023 IL App (5th) 230035, ¶¶ 36-46; *First Midwest Bank v. Rossi*, 2023 IL App (4th) 220643, ¶¶ 220-41; *Rowe v. Raoul*, 2023 IL 129248, ¶ 8 (noting

the plaintiffs raised a three-readings rule claim in the circuit court[1]).

¶ 97 In *Friends of the Parks*, 203 Ill. 2d at 329, this court noted it is "ever mindful of its duty to enforce the constitution of this state" and "urge[d] the legislature to follow the three-readings rule." The court went on to state that, "[w]hile separation of powers concerns militate in favor of the enrolled-bill doctrine [citation], our responsibility to ensure obedience to the constitution remains an equally important concern." *Id.*; see also *Field v. Clark*, 143 U.S. 649, 670 (1892) (stating it is "the duty of this court, from the performance of which it may not shrink, to give full effect to the provisions of the Constitution relating to the enactment of laws"). In *Geja's Cafe*, 153 Ill. 2d at 260, this court declined the invitation to abandon the enrolled-bill doctrine, feeling "the doctrine of separation of powers is more compelling." However, this court deferred to the legislature "hesitantly" and "reserve[d] the right to revisit this issue on another day to decide the continued propriety of ignoring this constitutional violation." *Id.*

¶ 98 Recently, in a case involving the very Act at issue in this case, the Fifth District in *Accuracy Firearms* addressed the serious concerns raised by the plaintiffs there as to the legislature's repeated failure to adhere to the requirements of article IV, section 8(d), and the three-readings rule.

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[1] The *Rowe* plaintiffs did not raise the three-readings issue in their appeal to this court.

"Unfortunately, the Illinois Supreme Court's warnings regarding past legislative nonconformance with constitutional boundaries (see *Friends of the Parks*, 203 Ill. 2d at 328-29) appear to have gone unheeded and, instead, are now interpreted as the judiciary's acceptance of, or the judiciary's acquiescence in, the legislature's continued failure to adhere to constitutional procedures when enacting legislation. While compliance with the enrolled-bill doctrine presumes the legislative procedure adhered to constitutional requirements (see *Geja's Cafe*, 153 Ill. 2d at 259), such presumption is readily overcome by evidence revealing the contrary posted on the General Assembly website.

We question the sagacity of continued adherence to the Illinois Supreme Court precedent in light of the legislature's continued blatant disregard of the court's warnings and the constitutional mandates. The three-reading requirement ensures that the legislature is fully aware of the contents of the bills upon which they will vote and allows the lawmakers to debate the legislation. Equally relevant to the three-reading rule is the opportunity for the public to view and read a bill prior to its passage, thereby allowing the public an opportunity to communicate either their concern or support for proposed legislation with their elected representatives and senators. Taken together, two foundations of the bedrock of democracy are decimated by failing to require the lawmakers to adhere to the constitutional principle.

> To be sure, Illinois is not the only state that has faced or endured repeated ethical lapses associated with gut and replace legislation. However, other states have addressed this issue and demand compliance with the state constitutional mandates. See *Washington v. Department of Public Welfare of Pennsylvania*, 188 A.3d 1135 (Pa. 2018); *State ex rel. Ohio ALF-CIO v. Voinovich*, 69 Ohio St. 3d 225, 1994-Ohio-1, 631 N.E.2d 582; *Bevin v. Commonwealth ex rel. Beshear*, 563 S.W.3d 74 (Ky. 2018); *League of Women Voters of Honolulu v. State*, 499 P.3d 382 (Haw. 2021).
>
> Our lawmakers take an oath of office to "'support the constitution of the United States, and the constitution of the state of Illinois.'" 25 ILCS 5/2 (West 2020); Ill. Const. 1970, art. XIII, § 3. The same is required for the circuit court judiciary (705 ILCS 35/2 (West 2020)) as well as the appellate and supreme courts and certain members of the executive branch (Ill. Const. 1970, art. XIII, § 3). Allowing lawmakers to continue to ignore constitutional mandates under the enrolled-bill doctrine, knowing full well the constitutional requirements were not met, belittles the language of the oaths, ignores the need for transparency in government, and undermines the language of this state's constitution." *Accuracy Firearms*, 2023 IL App (5th) 230035, ¶¶ 42-45.

¶ 99 Given the legislature's repeated failures, continued adherence to the enrolled-bill doctrine should no longer be countenanced. The doctrine "is contrary to

modern legal thinking, which does not favor conclusive presumptions that may produce results which do not accord with fact." *Association of Texas Professional Educators v. Kirby*, 788 S.W.2d 827, 829 (Tex. 1990); *D&W Auto Supply v. Department of Revenue*, 602 S.W.2d 420, 424 (Ky. 1980) (stating the doctrine "frequently *** produces results which do not accord with facts or constitutional provisions"). Moreover, "[t]he rule disregards the primary obligation of the courts to seek the truth and to provide a remedy for a wrong committed by any branch of government." *D&W Auto Supply*, 602 S.W.2d at 424.

¶ 100 Although this court has, in the past, found separation of powers to be a reason to decline abandoning the doctrine, it has not found it to be an absolute bar. This court has repeatedly reminded the legislature that it must comply with the bill-passage requirements of the constitution and, if it does not, this court reserves the right to act.

¶ 101 No doctrine can exempt from judicial review the requirements of the constitution. "It is emphatically the province and duty of the judicial department to say what the law is." *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803).

> " 'We may not abdicate this responsibility under the guise of our deference to a co-equal branch of government. While it is appropriate to give due deference to a co-equal branch of government as long as it is functioning within constitutional constraints, it would be a serious dereliction on our part to deliberately

> ignore a clear constitutional violation.'" *City of Philadelphia v. Commonwealth*, 838 A.2d 566, 581 (Pa. 2003) (quoting *Consumer Party of Pennsylvania v. Commonwealth*, 507 A.2d 323, 333 (Pa. 1986)).

See also *D&W Auto Supply*, 602 S.W.2d at 424 (disagreeing with "the premise that the equality of the various branches of government requires that we shut our eyes to constitutional failings and other errors of our coparceners in government").

¶ 102 This court cannot cede the constitutionality of a statute to the Speaker of the House of Representatives and the President of the Senate. To turn a blind eye to repeated violations of the constitution suggests "that the courts must perpetually remain in ignorance of what everybody else in the state knows." *Power, Inc. v. Huntley*, 235 P.2d 173, 181 (Wash. 1951) (*en banc*); see also *D&W Auto Supply*, 602 S.W.2d at 423 ("To countenance an artificial rule of law that silences our voices when confronted with violations of our constitution is not acceptable to this court.").

¶ 103 As Justice Heiple suggested and as other courts have advocated, "the signatures of the officers are merely *prima facie* evidence that the General Assembly has abided by the requirements of the constitution. In other words, it raises a rebuttable presumption that the requirements for passage have been met." *Dunigan*, 165 Ill. 2d at 28 (Heiple, J., concurring in part and dissenting in part); *Association of Texas Professional Educators*, 788 S.W.2d at 829 (stating "the present tendency favors giving the enrolled version only prima

facie presumptive validity, and a majority of states recognize exceptions to the enrolled bill rule"). That "presumption may be overcome by clear, satisfactory and convincing evidence establishing that constitutional requirements have not been met." *D&W Auto Supply*, 602 S.W.2d at 425.

¶ 104 Given the record here, including taking judicial notice of the history of the legislation on the General Assembly's website, I would find the presumption is clearly overcome in this case. See *Board of Education of Richland School District No. 88A v. City of Crest Hill*, 2021 IL 126444, ¶ 5 ("'Illinois courts often take judicial notice of facts that are readily verifiable by referring to sources of indisputable accuracy' such as court records or public documents, including records on [a] government website." (quoting *People v. Johnson*, 2021 IL 125738, ¶ 54)).

¶ 105 In this case, House Bill 5471 (HB 5471) (102d Ill. Gen. Assem., House Bill 5471, 2022 Sess.) was first introduced in the Illinois House of Representatives on January 28, 2022, as "an Act concerning regulation," seeking to amend the Illinois Insurance Code (215 ILCS 5/1 *et seq.*). The synopsis for HB 5471, which was approximately 10 pages in length, indicated the subject of the bill focused on providing the e-mail address of the public adjuster as well as other provisions regarding an insurance contract. 102d Ill. Gen. Assem., House Bill 5471, 2022 Sess. A second reading of HB 5471 occurred on March 1, 2022. *Id.* Then, along with 43 other bills voted on at the same time as a group, HB 5471 received its third reading (as a bill for an act

concerning regulation) on March 4, 2022, receiving 104 yeas and 0 nays. *Id.*

¶ 106 On March 7, 2022, HB 5471 arrived in the Illinois Senate and received its first reading before being referred to the assignments committee. The second reading took place on November 30, 2022. *Id.*

¶ 107 On January 8, 2023, the President of the Senate filed Senate floor amendment No. 1, which, in its 110 pages, completely stripped the insurance provisions of HB 5471 and replaced them with the "Protect Illinois Communities Act." On January 9, 2023, amendments 2, 3, 4, and 5, all of which addressed amendment 1, were presented in the Senate and passed on its third reading with 34 yeas and 20 nays. *Id.*

¶ 108 In its new form, HB 5471 was sent back to the House on January 10, 2023. HB 5471, as amended, was not read three times prior to voting on the bill. On January 10, 2023, the House voted to concur with Senate amendments 3, 4, and 5 with 68 yeas and 41 nays on each one. That same day, the Speaker of the House of Representatives and the President of the Senate certified that the procedural requirements of the constitution had been met, and Governor Pritzker signed the 111-page Act into law. *Id.*

¶ 109 Here, it is abundantly clear that the Protect Illinois Communities Act was not before the House or the Senate on three different days in each house. On January 8 and 9, 2023, the original Insurance Code bill was gutted, and the new amendments, including the restrictions on assault weapons and large-capacity

magazines, were considered and approved in the Senate. The new bill setting forth the Protect Illinois Communities Act then only spent one day in the House before it was passed and signed into law.

> "[T]he three readings requirement serves three important purposes: it (1) provides the opportunity for full debate on proposed legislation; (2) ensures that members of each legislative house are familiar with a bill's contents and have time to give sufficient consideration to its effects; and (3) provides the public with notice and an opportunity to comment on proposed legislation." *League of Women Voters of Honolulu v. State*, 499 P.3d 382, 396 (Haw. 2021).

See also *Schwegmann Brothers v. Calvert Distillers Corp.*, 341 U.S. 384, 396 (1951) (Jackson, J., concurring, joined by Minton, J.) (noting the three-readings requirement is intended "to make sure that each House knows what it is passing and passes what it wants"). On the contrary, the practice of gutting and replacing legislation "discourages public confidence and participation," "deprives the public of notice," and "is antithetical to the intent of the three readings requirement." *League of Women Voters*, 499 P.3d at 405.

¶ 110 In this case, the Insurance Code bill that received votes on three different days in the House in 2022 was in no way the firearms bill that passed the House on one vote in 2023. That is undeniable. And concluding that simply reading the title of a completely different bill on three different days suffices to pass

constitutional muster is an affront to the people of this state and renders the three-readings requirement essentially meaningless. No such conclusion—whether expressed or implied—should receive the imprimatur of this court.

¶ 111 Article IV, section 8, of the Illinois Constitution requires a bill be read by title on three different days in each house. Three different days in each house is all it would have taken for the legislators to consider the firearms bill before passage and thereby comply with the procedural requirements of the constitution. And three different days in each house is all it would take for the House and Senate to conduct the legislative process again if this court were to find a violation of the three-readings rule and declare the Act unconstitutional.

¶ 112 When, as in this case, the work of the legislature directly impacts a fundamental right, which this court has said the right to keep and bear arms is (*Guns Save Life, Inc. v. Ali*, 2021 IL 126014, ¶ 28), the people of Illinois deserve nothing less than the procedural requirements of the constitution be followed by their elected representatives and senators.

¶ 113 Because the procedural requirements of the constitution were not met in the passage of HB 5471, I would find the Act unconstitutional in its entirety. Thus, until this court has before it a validly passed act of the legislature, we should make no determination on

the Act at issue in this case. Accordingly, I respectfully dissent.

¶ 114 JUSTICE OVERSTREET joins in this dissent.

¶ 115 Justice O'BRIEN, dissenting:

¶ 116 I respectfully dissent because I do not find that the classifications at issue in this legislation further its claimed purpose and it is thus violative of the special legislation provision in our state constitution.

¶ 117 The special legislation clause states:

> "The General Assembly shall pass no special or local law when a general law is or can be made applicable. Whether a general law is or can be made applicable shall be a matter for judicial determination." Ill. Const. 1970, art. IV, § 13.

¶ 118 "This court has consistently held that the purpose of the special legislation clause is to prevent arbitrary legislative classifications that discriminate in favor of a select group without a sound, reasonable basis." *Best v. Taylor Machine Works*, 179 Ill. 2d 367, 391 (1997). Under the clause, the General Assembly may not confer "a special benefit or exclusive privilege on a person or a group of persons to the exclusion of others similarly situated." *Id.*

¶ 119 We employ a two-part test to determine whether a law is special legislation. *Piccioli v. Board of Trustees*

of the Teachers' Retirement System, 2019 IL 122905, ¶ 18. The first determination is whether the classification discriminates in favor of a select group to the exclusion of a group similarly situated. *Id.* If the classification does discriminate, we next determine whether the classification is arbitrary. *Id.* We use the same standards applicable to equal protection challenges to decide if a classification is arbitrary. *In re Estate of Jolliff*, 199 Ill. 2d 510, 520 (2002).

¶ 120 Unlike the majority, I would find that the plaintiffs are similarly situated in light of the purpose of the legislation. *In re M.A.*, 2015 IL 118049, ¶ 29 ("The determination whether individuals are similarly situated generally can only be made by considering the purpose of the particular legislation."). We do so by considering whether the classification is "based upon reasonable differences in kind or situation, and whether the basis for the classifications is sufficiently related to the evil to be obviated by the statute." *Best*, 179 Ill. 2d at 394.

¶ 121 The majority finds that the plaintiffs are not similarly situated to the exempted classifications and ends its analysis on that basis. To make the similarly situated determination, this court must view the classifications in light of the purpose of the legislation and the evils it seeks to remedy. *In re Belmont Fire Protection District*, 111 Ill. 2d 373, 380 (1986). The majority acknowledges that the legislation itself does not state a purpose but concludes that the defendants infer the intent of the Protect Illinois Communities Act (Act) (see Pub. Act 102-1116 (eff. Jan. 10, 2023)) is "to reduce

the number of assault weapons and LCMs in circulation" because they are often used in mass shootings. *Supra* ¶ 51. The majority correctly reiterates that, to determine whether the plaintiffs are similarly situated, the legislative purpose of the Act must frame its analysis. *Supra* ¶ 53.

¶ 122 The majority, however, did not consider whether the classifications further the legislative purpose of reducing the number of assault weapons and large capacity magazines (LCMs) and consequently the number of mass shootings. I find they do not and will not reasonably remedy the evils the legislation was designed to combat. Importantly, exempting the professionals and grandfathered groups does nothing to prevent the proliferation of out-of-state assault weapon possession or prevent those weapons from being used for mass shootings in this state or elsewhere. The legislation does not prevent weapon manufacturers, some located within this state, from continuing to sell assault weapons and LCMs to out-of-state residents, who may then potentially perpetrate a mass shooting. Because 60% of the weapons used in crimes in Illinois come from out of state, the legislation does not further its purported goal of reducing the number of weapons in the state. See Violence Prevention and Public Safety, Office of the Ill. Attorney Gen., https://illinois attorney general.gov/Safer-Communities/Violence-Prevention-and-Community-Safety/Crime-Connect/ (last visited Aug. 7, 2023) [https://perma.cc/JWG4-5874].

¶ 123 Similarly, the enumerated professional groups who are exempted based on their firearm training and

roles as societal protectors are presumably not apt to engage in mass shootings, and their ability to possess assault weapons and LCMs does not reduce either the number of assault weapons and LCMs or the threat of mass shootings. They may continue to possess and purchase the items the legislation bans nearly everyone else from possessing and purchasing. Moreover, not all the professionals are limited in the possession and use of their assault weapons to on-duty conduct, which places them in the same circumstance as members of the general public who may also have weapons training. For example, retired peace officers may continue to purchase and possess assault weapons despite that they no longer have any peacekeeping responsibilities or obligations. They are no different from private citizens who hold Firearm Owner's Identification cards, like the plaintiffs in this case, but are granted special treatment. Our constitution's prohibition against special legislation does not allow a law to afford special treatment to one group of citizens without a rational basis to do so. The special legislation provision in the constitution prohibits the different treatment of people based on criteria unrelated to the legislation's purpose. *Best*, 179 Ill. 2d at 391.

¶ 124 The professional group, albeit the recipients of firearm training, are not necessarily trained in assault weapons. Moreover, other nonexempted professionals and the general population may also have firearm and/or assault weapon training. According to an affidavit submitted by Caulkins in support of the plaintiffs' combined motion for declaratory judgment and/or

temporary or permanent injunction, in his opinion, his gun shop customers are as skilled with their firearms as the exempted professional class. Limiting the possession and purchase of assault weapons to this group does not contribute to the reduction of mass shootings.

¶ 125 The grandfathered group, created because of their reliance interest in prior ownership of the banned weapons and magazines, are allowed to maintain their weapons, which also does little to reduce the number of assault weapons and LCMs or mass shootings. According to the plaintiffs, there are numerous Illinois residents who currently own assault weapons. Any one of these assault weapons owners could perpetrate a mass shooting.

¶ 126 When considering the challenged classifications in light of the purpose of the law, neither of the classifications furthers the purpose. In this way, I find the plaintiffs are similarly situated in light of the purposes of the legislation and the evils it was designed to remedy. It is not enough that the legislature classified the groups; the classifications must be based on "reasonable differences in kind or situation, and whether the basis for the classifications is sufficiently related to the evil to be obviated by the statute." *Id.* at 394. The classifications must be founded on a rational or substantial difference of situation or condition. *Cutinello v. Whitley*, 161 Ill. 2d 409, 427 (1994) (Freeman, J., dissenting).

¶ 127 Here, the classifications afford special treatment to two groups of individuals without a viable connection between the exempted groups and reasons for the legislation. When considered in light of the offered purpose for the legislation, to reduce the number of weapons in order to reduce the number of mass shootings, the exempted classifications are in all aspects like the general population.

¶ 128 In dissenting, I do not pass judgment on the intent of the legislation. Rather, I only consider whether it meets the constitutional requirements under the equal protection and special legislation provisions of our Illinois Constitution. When we limit people's rights, even the rights we might not like, we have to do so in a way that honors the constitution.

> "Unless this court is to abdicate its constitutional responsibility to determine whether a general law can be made applicable, the available scope for legislative experimentation with special legislation is limited, and this court cannot rule that the legislature is free to enact special legislation simply because 'reform may take one step at a time.'" *Grace v. Howlett*, 51 Ill. 2d 478, 487 (1972) (quoting *Williamson v. Lee Optical of Oklahoma, Inc.*, 348 U.S. 483, 489 (1955)).

Under the special legislation clause, the constitutional test is "whether a general law can be made applicable." *Id.* I would find a general law could be made applicable.

¶ 129 Because the majority fails to undertake this appropriate analysis and finds the plaintiffs are not similarly situated, I respectfully dissent. I would find the legislation violates the constitutional prohibition against special legislation.

129453

IN THE

SUPREME COURT OF ILLINOIS

Dan Caulkins, Perry Lewin, Decatur Jewelry & Antiques Inc., and Law-Abiding Gun Owners of Macon County, a voluntary unincorporated association, Appellees v. Governor Jay Robert Pritzker, in his official capacity, Kwame Raoul, in his capacity as Attorney General, Emanuel Christopher Welch, in his capacity as Speaker of the House, and Donald F. Harmon, in his capacity as Senate President, Appellants	Motion to Disqualify

ORDER

(Filed Apr. 14, 2023)

This cause coming to be heard on the motion of appellees, due notice having been given, and the Court being fully advised in the premises;

IT IS ORDERED that, because disqualification in this Court is a decision that rests exclusively within the determination of the individual judge, appellees' request that the Court disqualify Justices Rochford and O'Brien is denied.

Order entered by the Court.

Rochford and O'Brien, J.J., took no part.

129453

IN THE

SUPREME COURT OF ILLINOIS

Dan Caulkins, Perry Lewin, Decatur Jewelry & Antiques Inc., and Law-Abiding Gun Owners of Macon County, a voluntary unincorporated association, Appellees v. Governor Jay Robert Pritzker, in his official capacity, Kwame Raoul, in his capacity as Attorney General, Emanuel Christopher Welch, in his capacity as Speaker of the House, and Donald F. Harmon, in his capacity as Senate President, Appellants	Motion for Recusal/ Disqualification

ORDER

(Filed Apr. 14, 2023)

Before the court is a motion by plaintiffs asking that I recuse myself from participating in the above-

entitled appeal.[1] The appeal concerns a constitutional challenge to the Protect Illinois Communities Act (Act), which was passed by the General Assembly and signed into law by the Governor in January 2023. See Pub. Act 102-1116 (eff. Jan. 10, 2023) (adding 5 ILCS 100/5-45.35). The Act contains a number of provisions that regulate firearms in this state.

Plaintiffs contend that I must recuse due to certain contributions made to the campaign committee supporting my election to this court. Plaintiffs argue that the contributions establish that I harbor personal bias with respect to the issue or Act presently before the court. Plaintiffs further allege that I "pledged to perform judicial duties to ban assault weapons which is an 'actual' indication or, at least, the appearance to the public, that impartiality on the instant issues of this appeal will not result." At another point in their motion, plaintiffs allege that "[t]he Justices ([myself and Justice Rochford] then candidates), by allowing their campaign committees to accept the unreasonable campaign contributions and pledging a position on the issues now presented in this appeal, erode public confidence in their independence to consider this case."

At the outset, plaintiffs acknowledge there is "no specific Illinois Supreme Court Rule specifying the disqualification remedy sought." Instead, plaintiffs

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[1] The motion also requests alternative relief that the court disqualify me from participating in the appeal. I offer no opinion as to this alternative request, as it is specifically tendered to my colleagues.

cite Rule 2.11(a)(1), (4) of the Illinois Code of Judicial Conduct of 2023, which provides:

> "A judge shall be disqualified in any proceeding in which the judge's impartiality might reasonably be questioned, including, but not limited to, the following circumstances:
>
> > (1) The judge has a personal bias or prejudice concerning a party or a party's lawyer or personal knowledge of facts that are in dispute in the proceeding.
> >
> > * * *
> >
> > (4) The judge, while a judge or a judicial candidate, has made a public statement, other than in a court proceeding, judicial decision, or opinion that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy." Ill. Code Judicial Conduct (2023) Canon 2, R. 2.11(a)(1), (4) (eff. Jan. 1, 2023).

With respect to paragraph (4), it must be noted and emphasized that plaintiffs' motion fails to identify any "pledge" I have made with respect to the issue or Act before the court. Plaintiffs' motion also fails to identify a previous public statement I have made with respect to the issue or Act before the court. Plaintiffs, as movants, carry the burden of factually substantiating their claims. As pled, plaintiffs' "pledge" claim amounts to nothing more than a sensationalized accusation.

Turning to paragraph (1), plaintiffs attempt to argue that the mere existence of certain campaign contributions somehow establishes my personal bias or prejudice as to the issue or Act before the court. Illinois Supreme Court Justice Lloyd A. Karmeier, in *Philip Morris USA Inc. v. Appellate Court, Fifth District*, No. 117689 (Ill. Sept. 24, 2014), previously addressed the same type of baseless accusations as the ones set out in plaintiffs' motion here. Justice Karmeier noted that a judge's campaign committee is free to solicit and accept "'reasonable campaign contributions and public support from lawyers.'" *Id.* at 9 (quoting Ill. S. Ct. R. 67(B)(2) (eff. Mar. 24, 1994)). Likewise, the Illinois Judicial Ethics Committee has long advised that a judge has no obligation "to disqualify himself or herself *** merely because a lawyer or party appearing before the judge was a campaign contributor." Ill. Jud. Ethics Comm. Op. 93-11 (Nov. 17, 1993). Plaintiffs do not refute these principles.

Because plaintiffs have failed to sufficiently plead any facts that would require disqualification under Rule 2.11 of the Code of Judicial Conduct, I am required under Rule 2.7 to hear and decide the instant appeal. See Ill. Code Judicial Conduct (2023) Canon 2, R. 2.7 (eff. Jan 1, 2023). "A judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law." *Id.* As Justice Karmeier correctly explained:

> "Litigants must not be permitted to create the grounds for recusal by criticizing the judge or casting sinister aspersions [citation], nor may

a party engage in 'judge-shopping' by manufacturing bias or prejudice that previously did not exist. [Citation.] Similarly, rumor, speculation, belief, conclusion, suspicion, opinion or similar non-factual matter are not sufficient. Rather, a judge has a duty to sit unless probative evidence is presented which establishes a reasonable factual basis to doubt the judge's impartiality. [Citations.] A judge is as much obliged not to recuse himself when it is not called for as he is obliged to when it is. [Citation.] Indeed, where the standards governing disqualification have not been met, disqualification is not optional. It is prohibited. [Citation.]" *Philip Morris USA Inc.*, slip order at 6-7.

Order entered by Justice O'Brien.

129453

IN THE

SUPREME COURT OF ILLINOIS

Dan Caulkins, Perry Lewin, Decatur Jewelry & Antiques Inc., and Law-Abiding Gun Owners of Macon County, a voluntary unincorporated association, Appellees v. Governor Jay Robert Pritzker, in his official capacity, Kwame Raoul, in his capacity as Attorney General, Emanuel Christopher Welch, in his capacity as Speaker of the House, and Donald F. Harmon, in his capacity as Senate President, Appellants	Motion Recusal/ Disqualification

ORDER

(Filed Apr. 14, 2023)

Plaintiffs have filed a motion for recusal/disqualification, asking that I recuse myself from consideration of the appeal of this case. At issue is the constitutionality of portions of Public Act 102-1116 (eff. Jan. 10,

2023) (adding 5 ILCS 100/5-45.35), the Protect Illinois Communities Act (Act), specifically the Act's restrictions on the possession and sale of assault weapons and large capacity magazines. Plaintiffs set forth two bases for their motion. First, plaintiffs claim certain campaign contributions to the Elizabeth M. Rochford for Illinois Supreme Court 2022 Campaign Committee create an appearance that "undermine[s] public confidence in the independence and impartiality of the Judiciary, in the decision of the Court or otherwise informs a basis to reasonably question impartiality free from the appearance of political influence and pressure." Second, plaintiffs claim that "statements or pledges" attributed to me, as a candidate for the Illinois Supreme Court, disclosed "a position favoring assault weapons prohibitions, an issue the reasonable candidate should have foreseen as likely for Court consideration, inconsistent with impartial performance of the adjudicative duties of the Court on the issues presented by this appeal."

Plaintiffs concede that there is no specific Illinois Supreme Court rule governing motions to recuse or disqualify members of this court. Plaintiffs state that they are presenting the motion to the court as a whole, pursuant to Illinois Supreme Court Rule 361 (eff. Feb. 1, 2023), which governs motion practice in the reviewing court. In addition, plaintiffs assert that I have a duty to consider recusal independently, even in the absence of a motion to disqualify, pursuant to Rule 2.11, comment 2, of the Illinois Code of Judicial Conduct of 2023. Ill. Code Judicial Conduct (2023) Canon 2, R.

2.11, cmt. 2 (eff. Jan. 1, 2023). Rule 2.11, comment 2, states: "A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed." *Id.*

Plaintiffs then generally cite canons 1, 2, and 4 of the Illinois Code of Judicial Conduct of 2023, and the rules and comments to those canons, as support for my recusal from this case. Plaintiffs also cite Rule 67 of the Code of Judicial Conduct (Ill. S. Ct. R. 67 (eff. Mar. 24, 1994)), which set forth authorized activities for judges and candidates. Ultimately, the gravamen of plaintiffs' motion regarding campaign contributions is that the contributions create an appearance that undermines public confidence in the impartiality of the judiciary.

Regarding the allegations concerning campaign contributions, plaintiffs do not, and cannot, allege any contributions to my campaign for the Illinois Supreme Court violated the Code of Judicial Conduct or the Illinois Election Code. Rule 67, which was canon 7 of the Code of Judicial Conduct and the rule in effect at the time of my campaign, provided in pertinent part:

> "A candidate shall not personally solicit or accept campaign contributions. A candidate may establish committees of responsible persons to conduct campaigns for the candidate *** . Such committees may solicit and accept *reasonable campaign contributions* *** . Such committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers." (Emphasis added.) Ill. S. Ct. R. 67(B)(2) (eff. Mar. 24, 1994).

Rule 67(B)(2) did not define reasonable, but the Election Code states, in addressing judicial elections, that a political committee that is self-funding "may not accept contributions from any single person *** in a cumulative amount that exceeds $500,000 in any election cycle." Pub. Act 102-909, § 5 (eff. May 27, 2022) (adding 10 ILCS 5/9-8.5(b-5) (1.1)).

Plaintiffs do not allege that any donations to my campaign committee, which was self-funding, exceeded the limits set forth in the Election Code. Perhaps recognizing that any donations to my campaign were within Election Code limits and thus reasonable, plaintiffs argue that whether the campaign contributions "were lawful or not is immaterial to the appearance of political influence." Plaintiffs also argue that, at the time of the campaign contributions, it was "likely that the contributors would appear as counsel or parties, individually or in official capacities, on a routine and regular basis."

That contributors to my campaign committee might appear as counsel or parties before this court does not require my recusal from this case. Our supreme court rules specifically allow a judicial candidate's campaign committee to solicit and accept reasonable campaign contributions and public support from lawyers. See Ill. S. Ct. R. 67(B)(2) (eff. Mar. 24, 1994). As the United States Court of Appeals for the Third Circuit has recognized, it is generally understood that "judicial campaigns must focus their solicitations for funds on members of the bar." *Stretton v. Disciplinary Board of the Supreme Court of Pennsylvania.*, 944 F.2d 137, 145

(3d Cir. 1991). High courts in other states in which judges are elected have held that a judge is not ethically, let alone constitutionally, required to recuse in cases where a party is represented by an attorney who has contributed to, or raised money for, the judge's reelection campaign. See *Shepherdson v. Nigro*, 5 F. Supp. 2d 305, 310-11 (E.D. Pa. 1998) (collecting cases).

Lacking any tangible basis to support their motion that I recuse myself, plaintiffs imagine bias based upon the "appearance of political influence." Under plaintiffs' "appearance of political influence" standard, however, I, along with my colleagues on the court, could be subject to a recusal motion in any case involving organizations or individuals that contributed to our campaigns. The court in *Shepherdson* explained the consequences of such a position. The court stated:

> "Absent public financing or blind funding of judicial campaigns, that a judge may preside in some cases in which a litigant's attorney contributed to the judge's campaign is an almost inevitable concomitant of the policy decision to elect judges. If a judge must recuse himself whenever a contributing attorney or member of a contributing firm enters an appearance, a candidate who succeeds in attracting contributions from a wide array of lawyers would constantly be recusing himself." *Shepherdson*, 5 F. Supp. 2d at 311.

In 2014, Illinois Supreme Court Justice Lloyd Karmeier was faced with a similar request to recuse himself from the case of *Phillip Morris USA, Inc. v. Appellate Court, Fifth District*, No. 117689 (Ill. Sept. 24, 2014). In denying the request to recuse himself, Justice Karmeier wrote:

> "The claim that a judge may not hear a case because a party may have some association with a public interest group or political party that did support or may have supported the judge's candidacy has no basis in the law, would be unworkable and is contrary to the very notion of an elected judiciary. When judges are elected, as the Illinois Constitution requires, it is inevitable (and entirely appropriate) that interest groups will support judges whose judicial philosophies they believe are most closely aligned with their own views. As movant correctly points out, the system would come to a grinding halt if contributions by organizations and interest groups were sufficient to force a judge to recuse himself or herself in any case in which a member of the group was a party. An affidavit submitted by noted legal scholars Ronald Rotunda and Charles Wolfram makes the point. Adopting a policy of recusal-by-association would logically require my recusal in each and every additional case in which any member of the organizations which supported my candidacy might appear as a litigant. Similarly, other members of the Court would also be forced to not participate in cases involving members of organizations that contributed to their

> campaigns, including unions and legal groups. Accordingly, instead of being a rare event, disqualification would be routine and even structural. Members of the court would be prevented from hearing a substantial number of cases for the entire duration of the terms they were elected by the voters to serve, and the court's ability to do its work would be compromised." *Id.* at 10-11.

In addition to the preceding considerations, the court in *Conklin v. Warrington Township*, 476 F. Supp. 2d 458, 463 (M.D. Pa. 2007), cautioned that courts must consider whether attacks on a judge's impartiality are "simply subterfuge to circumvent anticipated adverse rulings." Similarly, the court in *In re United States*, 158 F.3d 26, 35 (1st Cir. 1998), stated:

> "A party cannot cast sinister aspersions, fail to provide a factual basis for those aspersions, and then claim that the judge must disqualify herself because the aspersions, *ex proprio vigore*, create a cloud on her impartiality. [Citations.] To hold otherwise would transform recusal motions into tactical weapons which prosecutors and private lawyers alike could trigger by manipulating the gossamer strands of speculation and surmise."

In their motion, plaintiffs do exactly that. Plaintiffs cast sinister aspersions that contributions to my campaign committee were made to influence the instant litigation. Plaintiffs provide no factual basis for those aspersions.

Plaintiffs' other ground for my recusal in this case is their claim that I made a pledge to support a contemplated assault weapons prohibition during my campaign. Such a pledge would require disqualification under Illinois Code of Judicial Conduct (2023) Canon 2, Rule 2.11(4) (eff. Jan. 1, 2023). That rule provides that a judge shall be disqualified in any proceedings where the judge, "while a judge or a judicial candidate, has made a public statement *** that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy." *Id.*

Plaintiffs, however, do not cite any such pledge. Rather, plaintiffs infer such a pledge from the endorsement I received from two political action committees (PACs). Plaintiffs claim tha,t to earn the endorsement of those PACs, I "voiced support of the organizations' top legislative priority; banning assault weapons and large-capacity magazines in Illinois." Despite this broad claim, plaintiffs do not cite any instance in which I voiced such support. In fact, I have made no public statement committing or appearing to commit to reach a particular result or rule in a particular way in the instant proceeding that would require me to recuse or disqualify myself from this case.

In sum, plaintiffs do not suggest that I am biased or partial in this matter. Rather, plaintiffs have attempted to show bias based upon inference and supposition, to create the appearance of impropriety where none exists. I have carefully considered plaintiffs'

motion, and for the reasons set forth above, I deny plaintiffs' motion to recuse myself from this case.

Order entered by Justice Rochford.

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT MACON COUNTY, ILLINOIS

DAN CAULKINS et al., Plaintiffs, v. JB PRITZKER et al., Defendants.	No. 2023 CH 3

FINAL JUDGMENT

(Filed Mar. 3, 2023)

1. For the reasons set forth below, the Court enters final judgment in favor of defendants on counts I, II, III, and VI of the complaint and in favor of plaintiffs on counts IV and V of the complaint.

2. Plaintiffs allege in counts I, II, and III of the complaint that Public Act 102-1116 violates the single subject and three readings rules in article IV, section 8(d) of the Illinois constitution and that the method by which it was passed violates the due process clause in article I, section 2 of the Illinois constitution. *Accuracy Firearms, LLC v. Pritzker*, 2023 IL App (5th) 230035, ¶¶ 21-47, holds identical claims fail as a matter of law. In addition, plaintiffs allege in count VI that they are entitled to an injunction. *Kopnick v. JL Woode Management Co.*, 2017 IL App (1st) 152054, ¶ 34, holds an injunction is not a separate cause of action. The Court is bound to apply the appellate court's holdings to plaintiffs' claims in this case. *People v. Carpenter*, 228 Ill. 2d 250, 259-60 (2008). For these

reasons, the Court enters final judgment in favor of defendants on plaintiffs' single subject, three readings, and due process claims in counts I, II, and III, and the claim for an injunction in count VI, of the complaint.

3. Plaintiffs allege in counts IV and V of the complaint that exceptions to the prohibitions on assault weapons and large capacity ammunition feeding devices in sections 24-1.9 and 24-1.10 of the Criminal Code of 2012 violate the equal protection clause in article I, section 2 of the Illinois constitution and the special legislation clause in article N, section 13 of the Illinois constitution. Plaintiffs further allege sections 24-1.9 and 24-1.10 infringe on their fundamental rights to bear arms, under article I, section 22 of the Illinois constitution and U.S. Constitution, Second Amendment and therefore that to resolve plaintiffs' equal protection claim under article I, section 2 of the Illinois constitution (Count IV) and plaintiffs' special legislation claim under article N, section 13 of the Illinois constitution (Count V), the Court must subject the challenged exceptions to strict scrutiny. Complaint ¶¶ 2, 128-136, 153, 157. *Accuracy Firearms*, 2023 IL App (5th) 230035, ¶¶ 48-62, considered an equal protection challenge to the exceptions to sections 24-1.9 and 24-1.10. The appellate court held the right to bear arms under article I, section 22 of the Illinois constitution is fundamental for equal protection purposes, that the challenged exceptions are subject to strict scrutiny as a result, and that the challenged exceptions did not satisfy strict scrutiny. The Court is bound to apply the appellate court's holdings to plaintiffs' identical equal protection claim in this case.

Carpenter, 228 Ill. 2d at 259-60. Further, equal protection and special legislation claims "are judged by the same standard," *In re Estate of Jolliff*, 199 Ill. 2d 510, 520 (2002), so the Court is also bound to apply those holdings to plaintiffs' special legislation claim in this case. Defendants argue that *Accuracy Firearms* is wrongly decided for multiple reasons but acknowledge that the Court is bound to apply it. For these reasons, the Court enters final judgment in favor of plaintiffs on their equal protection and special legislation claims in counts IV and V of the complaint.

4. Pursuant to Illinois Supreme Court Rule 18, and in accordance with the Court's findings above, the Court further finds that:

   a. Sections 24-1.9 and 24-1.10 of the Criminal Code of 2012 violate the equal protection clause in article I, section 2 of the Illinois constitution and the special legislation clause in article IV, section 13 of the Illinois constitution.

   b. Sections 24-1.9 and 24-1.10 of the Criminal Code of 2012 are facially unconstitutional under these provisions of the Illinois constitution;

   c. Sections 24-1.9 and 24-1.10 of the Criminal Code of 2012 cannot reasonably be construed in a manner that would preserve their validity;

   d. the finding of unconstitutionality is necessary to the Court's decision and judgment; and

e. this decision and judgment cannot rest upon an alternative ground.

Dated: March 3, 2023 /s/ Rodney S. Forbes
Honorable Rodney S. Forbes
Associate Judge

(720 ILCS 5/24-1.9)

Sec. 24-1.9. Manufacture, possession, delivery, sale, and purchase of assault weapons, .50 caliber rifles, and .50 caliber cartridges.

(a) Definitions. In this Section:

(1) "Assault weapon" means any of the following, except as provided in subdivision (2) of this subsection:

(A) A semiautomatic rifle that has the capacity to accept a detachable magazine or that may be readily modified to accept a detachable magazine, if the firearm has one or more of the following:

(i) a pistol grip or thumbhole stock;

(ii) any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;

(iii) a folding, telescoping, thumbhole, or detachable stock, or a stock that is otherwise foldable or adjustable in a manner that operates to reduce the length, size, or any other dimension, or otherwise enhances the concealability of, the weapon;

(iv) a flash suppressor;

(v) a grenade launcher;

(vi) a shroud attached to the barrel or that partially or completely

encircles the barrel, allowing the bearer to hold the firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel.

(B) A semiautomatic rifle that has a fixed magazine with the capacity to accept more than 10 rounds, except for an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.

(C) A semiautomatic pistol that has the capacity to accept a detachable magazine or that may be readily modified to accept a detachable magazine, if the firearm has one or more of the following:

(i) a threaded barrel;

(ii) a second pistol grip or another feature capable of functioning as a protruding grip that can be held by the non-trigger hand;

(iii) a shroud attached to the barrel or that partially or completely encircles the barrel, allowing the bearer to hold the firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel;

(iv) a flash suppressor;

(v) the capacity to accept a detachable magazine at some location outside of the pistol grip; or

(vi) a buffer tube, arm brace, or other part that protrudes horizontally behind the pistol grip and is designed or redesigned to allow or facilitate a firearm to be fired from the shoulder.

(D) A semiautomatic pistol that has a fixed magazine with the capacity to accept more than 15 rounds.

(E) Any shotgun with a revolving cylinder.

(F) A semiautomatic shotgun that has one or more of the following:

(i) a pistol grip or thumbhole stock;

(ii) any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;

(iii) a folding or thumbhole stock;

(iv) a grenade launcher;

(v) a fixed magazine with the capacity of more than 5 rounds; or

(vi) the capacity to accept a detachable magazine.

(G) Any semiautomatic firearm that has the capacity to accept a belt ammunition feeding device.

(H) Any firearm that has been modified to be operable as an assault weapon as defined in this Section.

(I) Any part or combination of parts designed or intended to convert a firearm into an assault weapon, including any combination of parts from which an assault weapon may be readily assembled if those parts are in the possession or under the control of the same person.

(J) All of the following rifles, copies, duplicates, variants, or altered facsimiles with the capability of any such weapon:

(i) All AK types, including the following:

(I) AK, AK47, AK47S, AK-74, AKM, AKS, ARM, MAK90, MISR, NHM90, NHM91, SA85, SA93, Vector Arms AK-47, VEPR, WASR-10, and WUM.

(II) IZHMASH Saiga AK.

(III) MAADI AK47 and ARM.

(IV) Norinco 56S, 56S2, 84S, and 86S.

(V) Poly Technologies AK47 and AKS.

(VI) SKS with a detachable magazine.

(ii) all AR types, including the following:

(I) AR-10.

(II) AR-15.

(III) Alexander Arms Overmatch Plus 16.

(IV) Armalite M15 22LR Carbine.

(V) Armalite M15-T.

(VI) Barrett REC7.

(VII) Beretta AR-70.

(VIII) Black Rain Ordnance Recon Scout.

(IX) Bushmaster ACR.

(X) Bushmaster Carbon 15.

(XI) Bushmaster MOE series.

(XII) Bushmaster XM15.

(XIII) Chiappa Firearms MFour rifles.

(XIV) Colt Match Target rifles.

(XV) CORE Rifle Systems CORE15 rifles.

(XVI) Daniel Defense M4A1 rifles.

(XVII) Devil Dog Arms 15 Series rifles.

(XVIII) Diamondback DB15 rifles.

(XIX) DoubleStar AR rifles.

(XX) DPMS Tactical rifles.

(XXI) DSA Inc. ZM-4 Carbine.

(XXII) Heckler & Koch MR556.

(XXIII) High Standard HSA-15 rifles.

(XXIV) Jesse James Nomad AR-15 rifle.

(XXV) Knight's Armament SR-15.

(XXVI) Lancer L15 rifles.

(XXVII) MGI Hydra Series rifles.

(XXVIII) Mossberg MMR Tactical rifles.

(XXIX) Noreen Firearms BN 36 rifle.

(XXX) Olympic Arms.

(XXXI) POF USA P415.

(XXXII) Precision Firearms AR rifles.

(XXXIII) Remington R-15 rifles.

(XXXIV) Rhino Arms AR rifles.

(XXXV) Rock River Arms LAR-15 or Rock River Arms LAR-47.

(XXXVI) Sig Sauer SIG516 rifles and MCX rifles.

(XXXVII) Smith & Wesson M&P15 rifles.

(XXXVIII) Stag Arms AR rifles.

(XXXIX) Sturm, Ruger & Co. SR556 and AR-556 rifles.

(XL) Uselton Arms Air-Lite M-4 rifles.

(XLI) Windham Weaponry AR rifles.

(XLII) WMD Guns Big Beast.

(XLIII) Yankee Hill Machine Company, Inc. YHM-15 rifles.

(iii) Barrett M107A1.

(iv) Barrett M82A1.

(v) Beretta CX4 Storm.

(vi) Calico Liberty Series.

(vii) CETME Sporter.

(viii) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR 110C.

(ix) Fabrique Nationale/FN Herstal FAL, LAR, 22 FNC, 308 Match, L1A1 Sporter, PS90, SCAR, and FS2000.

(x) Feather Industries AT-9.

(xi) Galil Model AR and Model ARM.

(xii) Hi-Point Carbine.

(xiii) HK-91, HK-93, HK-94, HK-PSG-1, and HK USC.

(xiv) IWI TAVOR, Galil ACE rifle.

(xv) Kel-Tec Sub-2000, SU-16, and RFB.

(xvi) SIG AMT, SIG PE-57, Sig Sauer SG 550, Sig Sauer SG 551, and SIG MCX.

(xvii) Springfield Armory SAR-48.

(xviii) Steyr AUG.

(xix) Sturm, Ruger & Co. Mini-14 Tactical Rifle M-14/20CF.

(xx) All Thompson rifles, including the following:

(I) Thompson M1SB.

(II) Thompson T1100D.

(III) Thompson T150D.

(IV) Thompson T1B.

(V) Thompson T1B100D.

(VI) Thompson T1B50D.

(VII) Thompson T1BSB.

(VIII) Thompson T1-C.

(IX) Thompson T1D.

(X) Thompson T1SB.

(XI) Thompson T5.

(XII) Thompson T5100D.

(XIII) Thompson TM1.

(XIV) Thompson TM1C.

(xxi) UMAREX UZI rifle.

(xxii) UZI Mini Carbine, UZI Model A Carbine, and UZI Model B Carbine.

(xxiii) Valmet M62S, M71S, and M78.

(xxiv) Vector Arms UZI Type.

(xxv) Weaver Arms Nighthawk.

(xxvi) Wilkinson Arms Linda Carbine.

(K) All of the following pistols, copies, duplicates, variants, or altered facsimiles with the capability of any such weapon thereof:

(i) All AK types, including the following:

(I) Centurion 39 AK pistol.

(II) CZ Scorpion pistol.

(III) Draco AK-47 pistol.

(IV) HCR AK-47 pistol.

(V) IO Inc. Hellpup AK-47 pistol.

(VI) Krinkov pistol.

(VII) Mini Draco AK-47 pistol.

(VIII) PAP M92 pistol.

(IX) Yugo Krebs Krink pistol.

(ii) All AR types, including the following:

(I) American Spirit AR-15 pistol.

(II) Bushmaster Carbon 15 pistol.

(III) Chiappa Firearms M4 Pistol GEN II.

(IV) CORE Rifle Systems CORE15 Roscoe pistol.

(V) Daniel Defense MK18 pistol.

(VI) DoubleStar Corporation AR pistol.

(VII) DPMS AR-15 pistol.

(VIII) Jesse James Nomad AR-15 pistol.

(IX) Olympic Arms AR-15 pistol.

(X) Osprey Armament MK-18 pistol.

(XI) POF USA AR pistols.

(XII) Rock River Arms LAR 15 pistol.

(XIII) Uselton Arms Air-Lite M-4 pistol.

(iii) Calico pistols.

(iv) DSA SA58 PKP FAL pistol.

(v) Encom MP-9 and MP-45.

(vi) Heckler & Koch model SP-89 pistol.

(vii) Intratec AB-10, TEC-22 Scorpion, TEC-9, and TEC-DC9.

(viii) IWI Galil Ace pistol, UZI PRO pistol.

(ix) Kel-Tec PLR 16 pistol.

(x) All MAC types, including the following:

(I) MAC-10.

(II) MAC-11.

(III) Masterpiece Arms MPA A930 Mini Pistol, MPA460 Pistol, MPA Tactical Pistol, and MPA Mini Tactical Pistol.

(IV) Military Armament Corp. Ingram M-11.

(V) Velocity Arms VMAC.

(xi) Sig Sauer P556 pistol.

(xii) Sites Spectre.

(xiii) All Thompson types, including the following:

(I) Thompson TA510D.

(II) Thompson TA5.

(xiv) All UZI types, including Micro-UZI.

(L) All of the following shotguns, copies, duplicates, variants, or altered facsimiles with the capability of any such weapon thereof:

(i) DERYA Anakon MC-1980, Anakon SD12.

(ii) Doruk Lethal shotguns.

(iii) Franchi LAW-12 and SPAS 12.

(iv) All IZHMASH Saiga 12 types, including the following:

(I) IZHMASH Saiga 12.

(II) IZHMASH Saiga 12S.

(III) IZHMASH Saiga 12S EXP-01.

(IV) IZHMASH Saiga 12K.

(V) IZHMASH Saiga 12K-030.

(VI) IZHMASH Saiga 12K-040 Taktika.

(v) Streetsweeper.

(vi) Striker 12.

(2) "Assault weapon" does not include:

(A) Any firearm that is an unserviceable firearm or has been made permanently inoperable.

(B) An antique firearm or a replica of an antique firearm.

(C) A firearm that is manually operated by bolt, pump, lever or slide action, unless the firearm is a shotgun with a revolving cylinder.

(D) Any air rifle as defined in Section 24.8-0.1 of this Code.

(E) Any handgun, as defined under the Firearm Concealed Carry Act, unless otherwise listed in this Section.

(3) "Assault weapon attachment" means any device capable of being attached to a firearm that is specifically designed for making or converting a firearm into any of the firearms listed in paragraph (1) of this subsection (a).

(4) "Antique firearm" has the meaning ascribed to it in 18 U.S.C. 921(a)(16).

(5) ".50 caliber rifle" means a centerfire rifle capable of firing a .50 caliber cartridge. The term does not include any antique firearm, any shotgun including a shotgun that has a rifle barrel, or any muzzle-loader which uses black powder for hunting or historical reenactments.

(6) ".50 caliber cartridge" means a cartridge in .50 BMG caliber, either by designation or actual measurement, that is capable of being fired from a centerfire rifle. The term ".50 caliber cartridge" does not include any memorabilia or display item that is filled with a permanent inert substance or that is otherwise permanently altered in a manner that prevents ready modification for use as live ammunition or shotgun ammunition with a caliber measurement that is equal to or greater than .50 caliber.

(7) "Detachable magazine" means an ammunition feeding device that may be removed from a firearm without disassembly of the firearm action, including an ammunition feeding device that may be readily removed from a firearm with the use of a bullet, cartridge, accessory, or other tool, or any other object that functions as a tool, including a bullet or cartridge.

(8) "Fixed magazine" means an ammunition feeding device that is permanently attached to a firearm, or contained in and not removable from a firearm, or that is otherwise not a detachable magazine, but does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.

(b) Except as provided in subsections (c), (d), and (e), on or after the effective date of this amendatory Act of the 102nd General Assembly, it is unlawful for any person within this State to knowingly manufacture, deliver, sell, import, or purchase or cause to be manufactured, delivered, sold, imported, or purchased by

another, an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge.

(c) Except as otherwise provided in subsection (d), beginning January 1, 2024, it is unlawful for any person within this State to knowingly possess an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge.

(d) This Section does not apply to a person's possession of an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge device if the person lawfully possessed that assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge prohibited by subsection (c) of this Section, if the person has provided in an endorsement affidavit, prior to January 1, 2024, under oath or affirmation and in the form and manner prescribed by the Illinois State Police, no later than October 1, 2023:

(1) the affiant's Firearm Owner's Identification Card number;

(2) an affirmation that the affiant: (i) possessed an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge before the effective date of this amendatory Act of the 102nd General Assembly; or (ii) inherited the assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge from a person with an endorsement under this Section or from a person authorized under subdivisions (1) through (5) of subsection (e) to possess the assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge; and

(3) the make, model, caliber, and serial number of the .50 caliber rifle or assault weapon or assault weapons listed in paragraphs (J) , (K) , and (L) of subdivision (1) of subsection (a) of this Section possessed by the affiant prior to the effective date of this amendatory Act of the 102nd General Assembly and any assault weapons identified and published by the Illinois State Police pursuant to this subdivision (3). No later than October 1, 2023, and every October 1 thereafter, the Illinois State Police shall, via rulemaking, identify, publish, and make available on its website, the list of assault weapons subject to an endorsement affidavit under this subsection (d). The list shall identify, but is not limited to, the copies, duplicates, variants, and altered facsimiles of the assault weapons identified in paragraphs (J), (K), and (L) of subdivision (1) of subsection (a) of this Section and shall be consistent with the definition of "assault weapon" identified in this Section. The Illinois State Police may adopt emergency rulemaking in accordance with Section 5-45 of the Illinois Administrative Procedure Act. The adoption of emergency rules authorized by Section 5-45 of the Illinois Administrative Procedure Act and this paragraph is deemed to be necessary for the public interest, safety, and welfare.

The affidavit form shall include the following statement printed in bold type: "Warning: Entering false information on this form is punishable as perjury under Section 32-2 of the Criminal Code of 2012. Entering false information on this form is a violation of the Firearm Owners Identification Card Act."

In any administrative, civil, or criminal proceeding in this State, a completed endorsement affidavit submitted to the Illinois State Police by a person under this Section creates a rebuttable presumption that the person is entitled to possess and transport the assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge.

Beginning 90 days after the effective date of this amendatory Act of the 102nd General Assembly, a person authorized under this Section to possess an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge shall possess such items only:

(1) on private property owned or immediately controlled by the person;

(2) on private property that is not open to the public with the express permission of the person who owns or immediately controls such property;

(3) while on the premises of a licensed firearms dealer or gunsmith for the purpose of lawful repair;

(4) while engaged in the legal use of the assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge at a properly licensed firing range or sport shooting competition venue; or

(5) while traveling to or from these locations, provided that the assault weapon, assault weapon attachment, or .50 caliber rifle is unloaded and the assault weapon, assault weapon attachment, .50

caliber rifle, or .50 caliber cartridge is enclosed in a case, firearm carrying box, shipping box, or other container.

Beginning on January 1, 2024, the person with the endorsement for an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge or a person authorized under subdivisions (1) through (5) of subsection (e) to possess an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge may transfer the assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge only to an heir, an individual residing in another state maintaining it in another state, or a dealer licensed as a federal firearms dealer under Section 923 of the federal Gun Control Act of 1968. Within 10 days after transfer of the weapon except to an heir, the person shall notify the Illinois State Police of the name and address of the transferee and comply with the requirements of subsection (b) of Section 3 of the Firearm Owners Identification Card Act. The person to whom the weapon or ammunition is transferred shall, within 60 days of the transfer, complete an affidavit required under this Section. A person to whom the weapon is transferred may transfer it only as provided in this subsection.

Except as provided in subsection (e) and beginning on January 1, 2024, any person who moves into this State in possession of an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge shall, within 60 days, apply for a Firearm

Owners Identification Card and complete an endorsement application as outlined in subsection (d).

Notwithstanding any other law, information contained in the endorsement affidavit shall be confidential, is exempt from disclosure under the Freedom of Information Act, and shall not be disclosed, except to law enforcement agencies acting in the performance of their duties.

(e) The provisions of this Section regarding the purchase or possession of assault weapons, assault weapon attachments, .50 caliber rifles, and .50 cartridges, as well as the provisions of this Section that prohibit causing those items to be purchased or possessed, do not apply to:

(1) Peace officers, as defined in Section 2-13 of this Code.

(2) Qualified law enforcement officers and qualified retired law enforcement officers as defined in the Law Enforcement Officers Safety Act of 2004 (18 U.S.C. 926B and 926C) and as recognized under Illinois law.

(3) Acquisition and possession by a federal, State, or local law enforcement agency for the purpose of equipping the agency's peace officers as defined in paragraph (1) or (2) of this subsection (e).

(4) Wardens, superintendents, and keepers of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of an offense.

(5) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard, while performing their official duties or while traveling to or from their places of duty.

(6) Any company that employs armed security officers in this State at a nuclear energy, storage, weapons, or development site or facility regulated by the federal Nuclear Regulatory Commission and any person employed as an armed security force member at a nuclear energy, storage, weapons, or development site or facility regulated by the federal Nuclear Regulatory Commission who has completed the background screening and training mandated by the rules and regulations of the federal Nuclear Regulatory Commission and while performing official duties.

(7) Any private security contractor agency licensed under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 that employs private security contractors and any private security contractor who is licensed and has been issued a firearm control card under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 while performing official duties.

The provisions of this Section do not apply to the manufacture, delivery, sale, import, purchase, or possession of an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge or causing the manufacture, delivery, sale, importation, purchase, or possession of those items:

(A) for sale or transfer to persons authorized under subdivisions (1) through (7) of this subsection (e) to possess those items;

(B) for sale or transfer to the United States or any department or agency thereof; or

(C) for sale or transfer in another state or for export.

This Section does not apply to or affect any of the following:

(i) Possession of any firearm if that firearm is sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, but only when the firearm is in the actual possession of an Olympic target shooting competitor or target shooting coach for the purpose of storage, transporting to and from Olympic target shooting practice or events if the firearm is broken down in a nonfunctioning state, is not immediately accessible, or is unloaded and enclosed in a firearm case, carrying box, shipping box, or other similar portable container designed for the safe transportation of firearms, and when the Olympic target shooting competitor or target shooting coach is engaging in those practices or events. For the purposes of this paragraph (8), "firearm" has the meaning provided in Section 1.1 of the Firearm Owners Identification Card Act.

(ii) Any nonresident who transports, within 24 hours, a weapon for any lawful purpose from any place where the nonresident may lawfully possess and carry that weapon to any other place

where the nonresident may lawfully possess and carry that weapon if, during the transportation, the weapon is unloaded, and neither the weapon nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of the transporting vehicle. In the case of a vehicle without a compartment separate from the driver's compartment, the weapon or ammunition shall be contained in a locked container other than the glove compartment or console.

(iii) Possession of a weapon at an event taking place at the World Shooting and Recreational Complex at Sparta, only while engaged in the legal use of the weapon, or while traveling to or from that location if the weapon is broken down in a nonfunctioning state, is not immediately accessible, or is unloaded and enclosed in a firearm case, carrying box, shipping box, or other similar portable container designed for the safe transportation of firearms.

(iv) Possession of a weapon only for hunting use expressly permitted under the Wildlife Code, or while traveling to or from a location authorized for this hunting use under the Wildlife Code if the weapon is broken down in a nonfunctioning state, is not immediately accessible, or is unloaded and enclosed in a firearm case, carrying box, shipping box, or other similar portable container designed for the safe transportation of firearms. By October 1, 2023, the Illinois State Police, in consultation with the Department of Natural Resources, shall adopt rules concerning the list of applicable weapons approved under this subparagraph (iv). The

Illinois State Police may adopt emergency rules in accordance with Section 5-45 of the Illinois Administrative Procedure Act. The adoption of emergency rules authorized by Section 5-45 of the Illinois Administrative Procedure Act and this paragraph is deemed to be necessary for the public interest, safety, and welfare.

(v) The manufacture, transportation, possession, sale, or rental of blank-firing assault weapons and .50 caliber rifles, or the weapon's respective attachments, to persons authorized or permitted, or both authorized and permitted, to acquire and possess these weapons or attachments for the purpose of rental for use solely as props for a motion picture, television, or video production or entertainment event.

Any person not subject to this Section may submit an endorsement affidavit if the person chooses.

(f) Any sale or transfer with a background check initiated to the Illinois State Police on or before the effective date of this amendatory Act of the 102nd General Assembly is allowed to be completed after the effective date of this amendatory Act once an approval is issued by the Illinois State Police and any applicable waiting period under Section 24-3 has expired.

(g) The Illinois State Police shall take all steps necessary to carry out the requirements of this Section within by October 1, 2023.

(h) The Department of the State Police shall also develop and implement a public notice and public outreach campaign to promote awareness about the

provisions of this amendatory Act of the 102nd General Assembly and to increase compliance with this Section.

(Source: P.A. 102-1116, eff. 1-10-23.)

(720 ILCS 5/24-1.10)

Sec. 24-1.10. Manufacture, delivery, sale, and possession of large capacity ammunition feeding devices.

(a) In this Section:

"Handgun" has the meaning ascribed to it in the Firearm Concealed Carry Act.

"Long gun" means a rifle or shotgun.

"Large capacity ammunition feeding device" means:

(1) a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition for long guns and more than 15 rounds of ammunition for handguns; or

(2) any combination of parts from which a device described in paragraph (1) can be assembled.

"Large capacity ammunition feeding device" does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition. "Large capacity ammunition feeding device" does not include a tubular magazine that is contained in a lever-action firearm or any device that has been made permanently inoperable.

(b) Except as provided in subsections (e) and (f), it is unlawful for any person within this State to knowingly manufacture, deliver, sell, purchase, or cause to

be manufactured, delivered, sold, or purchased a large capacity ammunition feeding device.

(c) Except as provided in subsections (d), (e), and (f), and beginning 90 days after the effective date of this amendatory Act of the 102nd General Assembly, it is unlawful to knowingly possess a large capacity ammunition feeding device.

(d) Subsection (c) does not apply to a person's possession of a large capacity ammunition feeding device if the person lawfully possessed that large capacity ammunition feeding device before the effective date of this amendatory Act of the 102nd General Assembly, provided that the person shall possess such device only:

(1) on private property owned or immediately controlled by the person;

(2) on private property that is not open to the public with the express permission of the person who owns or immediately controls such property;

(3) while on the premises of a licensed firearms dealer or gunsmith for the purpose of lawful repair;

(4) while engaged in the legal use of the large capacity ammunition feeding device at a properly licensed firing range or sport shooting competition venue; or

(5) while traveling to or from these locations, provided that the large capacity ammunition feeding device is stored unloaded and enclosed in a

case, firearm carrying box, shipping box, or other container.

A person authorized under this Section to possess a large capacity ammunition feeding device may transfer the large capacity ammunition feeding device only to an heir, an individual residing in another state maintaining it in another state, or a dealer licensed as a federal firearms dealer under Section 923 of the federal Gun Control Act of 1968. Within 10 days after transfer of the large capacity ammunition feeding device except to an heir, the person shall notify the Illinois State Police of the name and address of the transferee and comply with the requirements of subsection (b) of Section 3 of the Firearm Owners Identification Card Act. The person to whom the large capacity ammunition feeding device is transferred shall, within 60 days of the transfer, notify the Illinois State Police of the person's acquisition and comply with the requirements of subsection (b) of Section 3 of the Firearm Owners Identification Card Act. A person to whom the large capacity ammunition feeding device is transferred may transfer it only as provided in this subsection.

Except as provided in subsections (e) and (f) and beginning 90 days after the effective date of this amendatory Act of the 102nd General Assembly, any person who moves into this State in possession of a large capacity ammunition feeding device shall, within 60 days, apply for a Firearm Owners Identification Card.

(e) The provisions of this Section regarding the purchase or possession of large capacity ammunition feeding devices, as well as the provisions of this Section that prohibit causing those items to be purchased or possessed, do not apply to:

(1) Peace officers as defined in Section 2-13 of this Code.

(2) Qualified law enforcement officers and qualified retired law enforcement officers as defined in the Law Enforcement Officers Safety Act of 2004 (18 U.S.C. 926B and 926C) and as recognized under Illinois law.

(3) A federal, State, or local law enforcement agency for the purpose of equipping the agency's peace officers as defined in paragraph (1) or (2) of this subsection (e).

(4) Wardens, superintendents, and keepers of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of an offense.

(5) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard, while their official duties or while traveling to or from their places of duty.

(6) Any company that employs armed security officers in this State at a nuclear energy, storage, weapons, or development site or facility regulated by the federal Nuclear Regulatory Commission and any person employed as an armed security force member at a nuclear energy, storage, weapons, or development site or facility regulated

by the federal Nuclear Regulatory Commission who has completed the background screening and training mandated by the rules and regulations of the federal Nuclear Regulatory Commission and while performing official duties.

(7) Any private security contractor agency licensed under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 that employs private security contractors and any private security contractor who is licensed and has been issued a firearm control card under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 while performing official duties.

(f) This Section does not apply to or affect any of the following:

(1) Manufacture, delivery, sale, importation, purchase, or possession or causing to be manufactured, delivered, sold, imported, purchased, or possessed a large capacity ammunition feeding device:

(A) for sale or transfer to persons authorized under subdivisions (1) through (7) of subsection (e) to possess those items;

(B) for sale or transfer to the United States or any department or agency thereof; or

(C) for sale or transfer in another state or for export.

(2) Sale or rental of large capacity ammunition feeding devices for blank-firing assault weapons and .50 caliber rifles, to persons authorized or permitted, or both authorized and permitted, to acquire these devices for the purpose of rental for use solely as props for a motion picture, television, or video production or entertainment event.

(g) Sentence. A person who knowingly manufactures, delivers, sells, purchases, possesses, or causes to be manufactured, delivered, sold, possessed, or purchased in violation of this Section a large capacity ammunition feeding device capable of holding more than 10 rounds of ammunition for long guns or more than 15 rounds of ammunition for handguns commits a petty offense with a fine of $1,000 for each violation.

(h) The Department of the State Police shall also develop and implement a public notice and public outreach campaign to promote awareness about the provisions of this amendatory Act of the 102nd General Assembly and to increase compliance with this Section.

(Source: P.A. 102-1116, eff. 1-10-23.)

No. 129453

IN THE

SUPREME COURT OF ILLINOIS

DAN CAULKINS; PERRY LEWIN; DECATUR JEWELRY & ANTIQUES INC.; and LAW-ABIDING GUN OWNERS OF MACON COUNTY, a Voluntary unincorporated association, Plaintiffs-Appellees v. Governor JAY ROBERT PRITZKER, In his official capacity; KWAME RAOUL In his capacity as Attorney General; EMANUEL CHRISTOPHER WELCH, in in his capacity as Speaker of the House; and DONALD F. HARMON, in his capacity as Senate President, Defendants - Appellants.	On Direct Appeal from the Circuit Court of the Sixth Judicial Circuit, Macon County, Illinois No. 2023-CH-3 The Honorable RODNEY S. FORBES, Judge Presiding.

MOTION FOR RECUSAL/DISQUALIFICATION

(Filed Mar. 29, 2023)

Now Come Plaintiffs-Appellees, Dan Caulkins, Perry Lewin, Decatur Jewelry & Antiques, Inc, and Law-Abing Gun Owners of Macon County, a voluntary

unincorporated association, by their attorneys, Jerrold H. Stocks and Brian D. Eck, Featherstun, Gaumer, Stocks, Flynn & Eck, LLP, and for their Motion for Recusal/Disqualification of Justices Rochford and O'Brien from consideration of this matter, state:

I. INTRODUCTION

The instant appeal addresses the subject matter of the constitutionality of recently enacted legislation criminalizing the possession, use or sale of assault weapons for some citizens while extending immunities (and other benefits) from criminal prosecution to others for the possession, use, and sale of assault weapons. (R.C. 840-48). Plaintiffs request the recusal/disqualification of Justices Elizabeth Rochford and Mary Kay O'Brien [hereinafter: "Justices" or "the Justices"] from consideration of the instant appeal based on: (1) an appearance that unreasonably large campaign contributions accepted by the campaign committees for said Justices in the 2022 election cycle from one or more Defendants, lawyers for Defendants and/or affiliates of the Defendants [hereinafter: "campaign contributions" or "the campaign contributions" and donors "stakeholders"] undermine public confidence in the independence and impartiality of the Judiciary, in the decision of the Court or otherwise informs a basis to reasonably question impartiality free from the appearance of political influence and pressure; and/or (2) statements or pledges [hereinafter: "pledge(s)"] attributed to the Justices, as candidates, disclosing a position favoring assault weapons prohibitions, an issue

the reasonable candidate should have foreseen as likely for Court consideration, inconsistent with impartial performance of the adjudicative duties of the Court on the issues presented by this appeal.

II. FACTS

(Supporting Record filed [S.R.]
separately under affidavit of counsel)

1. Campaign contributions to Rochford Campaign Committee pursuant to Illinois State Board of Elections in connection with her candidacy for the Illinois Supreme Court show the following from reporting periods July 1, 2021 to December 31, 2022 (S.R. 1to 153):

Total Individualized Contributions: $2,113,213.00. (S.R. 2, 38, 75, 99, 118, 136). Total Transfer-In Contributions (from other Committees): $1,401,475.00. (S.R.2, 38, 75, 99, 118, 136). On September 23, 2022, JB for Governor Transferred In the sum of $500,000.00. (S.R. 64). On October 27, 2022, Jay Robert Pritzker Revocable Trust Individually Contributed $500,000.00. (S.R. 9). On October 13, 2022, the campaign committee for Defendant Welch Transferred In $150,000.00. (S.R.20). Attorneys[1], inclusive of respective firms/partners, appearing for one or more Defendant in this appeal contributed the sum of $117,750.00 (S.R. 13, 42, 55, 56, 57, 76, 81, 105, 106).

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[1] Power, Rogers (Defendant Harmon counsel). Amount excludes spouses.

2. Campaign contributions to O'Brien Campaign Committee pursuant to Illinois State Board of Elections in connection with her candidacy for the Illinois Supreme Court show the following from reporting periods July 1, 2021 to December 31, 2022 (S.R. 154 to 298):

Total Individualized Contributions: $2,113,213.00. (S.R. 155, 159, 169, 193, 217, 260). Total Transfer-In Contributions (from other Committees): $1,401,475.00. (S.R. 155, 159, 169, 193, 217, 260). On May 24, 2022, JB Exploratory committee Transferred In the sum of $500.00. (S.R. 202). On September 29, 2022, JB for Governor Transferred In the sum of $500,000.00. (S.R. 242). On October 28, 2022, Jay Robert Pritzker Revocable Trust Individually Contributed $500,000.00. (S.R. 268). In October, 2022, the campaign committee for Defendant Welch Transferred In the sum of $350,000.00. (S.R. 276). Attorneys[2], inclusive of respective firms/partners, appearing for one or more Defendant in this appeal contributed the sum of $62,750.00 (S.R.219, 232, 233, 234, 236, 270).

3. The Justices were two of the G-PAC endorsed candidates that won the 2022 General Election with the support of G-PAC and Giffords PAC. The organizations claimed that they were heavily involved in delivering victories in many contested races. To earn the endorsement of G-PAC and Giffords PAC, **each candidate voiced their support of the organizations'**

[2] Power, Rogers (Defendant Harmon counsel). Amount excludes spouses.

top legislative priority: banning assault weapons and large-capacity magazines in Illinois. Looking toward veto and lame duck session before the 103rd General Assembly is sworn in this coming January, the gun violence prevention movement will be forcefully advocating to pass the measure into law. https://gpacillinois.com/g-pac-and-giffords-pac-celebrate-88-victories-in-general-election/ (S.R., 304-05).

To earn a gun safety endorsement, each candidate demonstrated strong support for banning assault weapons and large-capacity magazines. Each endorsed candidate supported [as a candidate] the #1 legislative priority when the General Assembly is called into session: banning assault weapons and large capacity magazines. Included as endorsed candidates are the Justices, Defendant Welch, Defendant Raoul and Defendant Harmon. https://gpacillinois.com/2022-generalendorsements/ (S.R., 299-301)

4. Public perception questioning the independence and impartiality of the Justices based on campaign contributions or pledges already has manifest. https://www.chicagotribune.com/opinion/commentary/ct-column-illinois-supreme-court-seats-washington-20221017-54p3wpeycvcidjnt6frdz2phk4-story.html (S.R. 308-12)

III. LEGAL GROUNDS

1. Procedurally, there is no specific Illinois Supreme Court Rule specifying the disqualification

remedy sought. Thus, the instant Motion is pursuant to IL S. Ct. R. 361 and presented to the Court, as a whole. Alternatively, each Justice, individually, has the duty to consider recusal independently in the absence of a Motion to Disqualify. ILLINOIS CODE OF JUDICIAL CONDUCT OF 2023, Canon 2, Rule 2.11, *comment* 2.

2. Canons of judicial conduct provide guidance to each Justice when addressing the issues presented. ILLINOIS CODE OF JUDICIAL CONDUCT OF 2023, Preamble and Scope, para 3 (2022-07-01; *effective* January 1, 2023). Professional codes of conduct provide more protection than due process requires. *Williams v. Pennsylvania*, 579 U.S. 1, 13 (2016). More particularly, the following Canons of the ILLINOIS CODE OF JUDICIAL CONDUCT, Rules thereunder and comments thereto, and Illinois Supreme Court Rules (in effect at time of campaign contributions and pledges) compellingly support recusal by the Justices, if exercising their own independent inquiry, or disqualification under the Motion to Disqualify (*emphasis added*):

CANON 1: A **Judge shall uphold and promote the independence,** integrity, and **impartiality** of the judiciary and shall avoid impropriety and the **appearance of impropriety** in all of the judge's activities.

> COMMENT: An independent . . . judiciary is indispensable for creating and preserving public trust and confidence in the legal system.

* * *

RULE 1.2: PROMOTING CONFIDENCE IN THE JUDICIARY

A judge shall act at all times in a manner that **promotes public confidence in the independence, integrity and impartiality** of the judiciary . . .

> COMMENTS: [2] A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens and must accept the restrictions imposed by this Code.
>
> [3] Conduct that . . . **appears to compromise the independence, integrity and impartiality** of a judge undermines public confidence in the judiciary.
>
> [5] The test for appearance of impropriety is whether the conduct would create in **reasonable minds a perception** that the judge violated this Code or engaged in other conduct that **reflects adversely on the judge's** . . . **impartiality**.

* * *

CANON 2: A Judge shall perform the duties of judicial office **impartially** . . .

Rule 2.2: A judge shall uphold and apply the law and **shall perform the duties** of judicial office fairly and **impartially**.

* * *

RULE 2.4: . . . (B) A judge shall not permit . . . **political,** financial, or other interests or relationships to influence the judge's judicial conduct or judgment. (C) A judge shall not convey [or **permit others to convey the impression that any person or organization is in a position to influence the judge.**

> COMMENTS: [1] . . . **Confidence in the judiciary is eroded** if judicial decision-making is **perceived to be subject to inappropriate outside influences**.

* * *

RULE 2.10: . . . (B) A judge shall not, in connection with cases, controversies, or **issues that are likely to come before the court, make pledges, promises, or commitments** that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

> COMMENTS: [1] This Rule's restrictions on judicial speech are essential to the maintenance of the independence, integrity, and impartiality of the judiciary.

RULE 2.11: DISQUALIFICATION

(A) A judge shall be disqualified in any proceeding in which the judge's impartiality* might reasonably be questioned, including, but not limited to, the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer or personal

knowledge of facts that are in dispute in the proceeding.

* * *

(4) The judge, while a judge or a judicial candidate, has made a public statement, other than in a court proceeding, judicial decision, or opinion that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

COMMENTS: [1] Under this Rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of paragraphs (A)(1) through (6) apply. For example, the participation in a matter involving a person with whom the judge has an intimate relationship or a member of the judge's staff may require disqualification.

[2] A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.

* * *

CANON 4: A judge or judicial candidate shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary.

RULE 4.1: POLITICAL AND CAMPAIGN ACTIVITIES IN PUBLIC ELECTIONS

(C) A judicial candidate:

(1) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the independence, integrity, and impartiality of the judiciary;

(4) **shall not**:

(a) **make pledges**, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office with respect to cases, controversies, **or issues that are likely to come before the court**;

COMMENTS: [1] A judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based upon the expressed views or preferences of the electorate, a judge makes decisions based upon the law and the facts of every case. Therefore, in furtherance of this interest, **judges and judicial candidates must, to the greatest extent possible, be free and appear to be free from political influence and political pressure.** This Canon imposes narrowly tailored restrictions upon the political and campaign activities of all judges and judicial candidates.

[3] **Public confidence in the independence, integrity, and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence.**

PLEDGES, PROMISES, OR COMMITMENTS INCONSISTENT WITH IMPARTIAL PERFORMANCE

OF THE ADJUDICATIVE DUTIES OF JUDICIAL OFFICE

> [11] The role of a judge is different from that of a legislator or executive branch official, even when the judge is subject to public election. Campaigns for judicial office must be conducted differently from campaigns for other offices . . .

RULE 4.4: Campaign Committees

> COMMENTS:[1] . . . to establish campaign committees to solicit and **accept reasonable** financial contributions or in-kind contributions.
>
> [3] The campaign committee may solicit and accept campaign contributions from **lawyers and others who might appear before the candidate**. The candidate **should instruct the campaign committee to be cautious in connection with such contributions so it does not create grounds for disqualification.**
>
> [4] During the campaign, the candidate and the campaign committee should be **aware that a contribution may affect the independence, integrity, and impartiality of the judge and may create grounds for disqualification if the candidate is elected to office.**

* * *

ILLINOIS SUPREME COURT RULE 67(A)(3)(d)(i) (*in effect at time of campaign contributions and pledges*):

A candidate for judicial office shall not make statements that commit or **appear to commit the candidate with respect to cases, controversies, or issues within cases that are likely to come before the court;**

ILLINOIS SUPREME COURT RULE 67(B)(2) (*in effect at time of campaign contributions and pledges*):

[Campaign] committees may solicit and accept **reasonable** campaign contributions . . .

3. The reported pledge to support a contemplated assault weapons prohibition during the campaign conveys a direct appearance of lack of impartiality on an issue before the Court. ILLINOIS CODE OF JUDICIAL CONDUCT, Rule 4.1 (c)(4). The pledge is not remote. In fact, the reported pledge identified the legislative timing and legislative content from which the instant appeal arises. Under the circumstances, it is unreasonable to conclude that public perception would accept a decision as impartial. Public confidence in any decision will suffer if the Justices participate in consideration of the instant matter.

A contention that campaign money informs an appearance that a Justice is not free from political influence finds support in the campaign contributions. The amount of the campaign contributions comprising cash accepted by the Justice's committees dominated

fundraising. Viewed in rank-order, stakeholders (inclusive of attorneys) to this litigation occupied the highest levels of itemized contributors of cash. The significance of the campaign contributions cannot be understated as often in politics, cash follows cash, especially when one considers the stake the Governor and/or Speaker were taking in the race(s). Thirty-Nine percent (39%) of Justice O'Brien's cash came from litigation stakeholders. Thirty-Six percent (36%) of Justice Rochford's cash came from litigation stakeholders. At time of the acceptance of the campaign contributions, it was likely that the contributors would appear as counsel or parties, individually or in official capacities, on a routine and regular basis. Litigation related to Second Amendment issues presenting to the Justices was foreseeable and likely contemplated based on the content of the reported pledges.

Understanding the command to preserve the appearance of independence and impartiality, one fairly asks: "What were the Justices or their committees thinking when they accepted the campaign contributions?" Perhaps, the better question is: "How were the Justices or their committees thinking at the time the campaign contributions were accepted? As political candidates or as potential Justices?" The canons and rules required judicial candidates to think as a Justice and accept only reasonable contributions. See: ILLINOIS CODE OF JUDICIAL CONDUCT, Rule 4.4, *comments* 3 and 4. "Reasonable" does not appear limited to an assessment of an amount, but, includes (or should include) limiting from whom the contribution is

accepted to preserve the appearance of independence from the other branches of government. Judicial candidates, especially for the Supreme Court, must zealously protect against the appearance that the Executive or Legislative branch influences the independence of the judiciary. After all, it is the Supreme Court that often presents the last chance to check an abuse of power by the other two branches. The pervasive ideas and aspirations, if not direct requirements, of the ILLINOIS CODE OF JUDICIAL CONDUCT and predecessor Illinois Supreme Court Rule impel recusal of the Justices upon their own respective assessments.

4. "The difficulties of inquiring into actual bias, and the fact that the inquiry is often a private one, simply underscore the need for objective rules. Otherwise, there may be no adequate protection against a judge who simply misreads or misapprehends the real motives at work in deciding the case. The judge's own inquiry into actual bias, then, is not one that the law can easily superintend or review, though actual bias, if disclosed, no doubt would be grounds for appropriate relief. In lieu of exclusive reliance on that personal inquiry, or on appellate review of the judge's determination respecting actual bias, the Due Process Clause has been implemented by objective standards that do not require proof of actual bias." *Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868, 883 (2009). Due process requires an objective inquiry into whether the contributors' influence on the election under all the circumstances "would offer[s] a possible temptation to

the average . . . judge to . . . lead him not to hold the balance nice, clear and true." *Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868, 885 (2009). Substantively, due process under the 14th Amendment of the United States Constitution requires recusal/disqualification under the standards established in *Caperton* with respect to the campaign contributions accepted by the campaign committees of Justices Rochford and O'Brien in connection with the 2022 election cycle. Together or independently, the pledges also require recusal/disqualification to preserve the due process rights of the Plaintiffs.

Whether the campaign contributions were a necessary and sufficient cause of victory for either Justice is not the proper inquiry. Much like determining whether a judge actually is biased, proving what ultimately drives the electorate to choose a particular candidate is a difficult endeavor, not likely to lend itself to a certain conclusion. See: *Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868, 885 (2009).

Whether the Pritzker campaign contributions were lawful or not is immaterial to the appearance of political influence. Judicial candidates must be free and **appear to be free** from political influence and political pressure. ILLINOIS CODE OF JUDICIAL CONDUCT, Canon 4, Rule 4. 1, *comment* 1. (*emphasis added*). While one could disregard the stringing of contributions by separate Pritzker controlled/influenced entities to identify the real interest seeking to influence the independence of the judicial candidate (as it is obvious to anyone possessed with common sense) to

argue an unlawful contribution, each contribution amount failed to pass any test for reasonableness or, more importantly, the appearance of reasonableness. Considering the ways campaign money may be "softened," it is fair to infer that Pritzker well wanted it known that he was the preeminent cash contributor to their election success. To reiterate, the money at issue comes from those in control of the other branches of government against which the judiciary checks abuse and balances power for the protection of the citizenry. In this circumstance, the impact of the political influence is far more corrosive to the appearance of an independent judiciary than large contributions from one private contributor. If one private contributor gave one million dollars to a campaign and had one case come before the Court, would there be any hesitation to recuse? Here, the source for the money yields the perception that the judiciary is a "rubber stamp" for the executive and/or legislative branch. If this Court approves the apparent influence from the campaign contributions at issue, then that approval is an unmitigated invitation for the same political influence in future election cycles that will erode public confidence in the independence of the judiciary.

5. In the instant case, there is more than the temptation to not hold the balance nice, clear and true. See: *Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868, 885 (2009). Here, it is reported that the Justices (as candidates) pledged to perform judicial duties to ban assault weapons which is an "actual" indication or, at least, the appearance to the public, that impartiality

on the instant issues of this appeal will not result. (See: Part I Facts: Paragraph 3, above). Under the appearances arising from the instant record, public confidence in the impartiality or independence of the judiciary will be diminshed by participation of the Justices in the consideration of the instant appeal. The participation of the Justices in the consideration of this appeal risks invalidating any action by the Court even if the majority of the remaining justices concur in the determination of the appeal. *Williams v. Pennsylvania*, 579 U.S. 1, 15 (2016). "A multimember court must not have its guarantee of neutrality undermined, for the appearance of bias demeans the reputation and integrity not just of one jurist, but of the larger institution of which he or she is a part. An insistence on the appearance of neutrality is not some artificial attempt to mask imperfection in the judicial process, but rather an essential means of ensuring the reality of a fair adjudication. Both the appearance and reality of impartial justice are necessary to the public legitimacy of judicial pronouncements and thus to the rule of law itself. When the objective risk of actual bias on the part of a judge rises to an unconstitutional level, the failure to recuse cannot be deemed harmless." *Williams v. Pennsylvania*, 579 U.S. 1, 15-16 (2016).

6. Public perception is Illinois government reeks of corruption. The litany of convictions and indictments of Illinois public officials, both political parties, proffers convincing evidence to support this pervasive public opinion. The ILLINOIS CODE OF JUDICIAL CONDUCT commands judges to rise above the

appearance of corruption and to transcend that which the Executive and Legislative branches tolerate in their pursuit of political power. " The role of judge is different from that of a legislator or executive branch official even when the judge is subject to public election. Campaigns for judicial office must be conducted differently from campaigns for other offices." ILLINOIS CODE OF JUDICIAL CONDUCT, Canon 4, Rule 4.1, *comment* 11. The Justices (then candidates), by allowing their campaign committees to accept the unreasonable campaign contributions and pledging a position on the issues now presented in this appeal, erode public confidence in their independence to consider this case. This Motion presents the occasion for the Court to take measure of the public perception of Illinois government and to assure that the judiciary preserves its integrity. Throughout the State, state's attorneys and sheriffs have pledged to nullify the law at issue in this appeal pursuant to their respective oaths to honor the Constitution. It is fair commentary to perceive a state of crisis in public confidence in state government. Appearances are critical to legitimacy. The subject matter of this case intensifies the command for judicial integrity beyond all question.

The undersigned counsel recognize a duty to preserve the integrity of the Court and understand that canons of judicial conduct are not a sword to wield to gain advantage in a civil proceeding. The relief sought seeks to serve the former. When the undersigned counsel, with their clients, find themselves in the well of this Court to argue the issues of this appeal, they will

look to the table of the opposing counsel and see the leading cash donors, approximately $2,681,000.00 of campaign contributions to the Justices, present or represented and look up to the dais to see Justices pledged to support the agenda at issue. Thus, this Motion seeks to shield Plaintiffs from a denial of due process.

IV. RELIEF REQUESTED

For one or more of the reasons stated herein, Plaintiffs respectfully request that each Justice (Rochford and O'Brien) recuse herself on her own inquiry or, alternatively, that the Court disqualify the Justices from any involvement in the consideration of issues presented in this appeal.

Dan Caulkins, Perry Lewin,
Decatur Jewelry & Antiques, Inc
and Law-Abiding Gun Owners of
Macon County, a voluntary
unincorporated Association,

Plaintiffs/Appellees

FEATHERSTUN, GAUMER,
STOCKS, FLYNN & ECK, LLP,
their Attorneys,

By: /s/ Jerrold H. Stocks

/s/ Brian D. Eck

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Verification by Certification of Counsel

The factual support for the relief requested does not appear of record. Accordingly, pursuant to Illinois Supreme Court Rule 361(a) and under penalties of law under Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

March 28, 2023 /s/ Jerrold H. Stocks

[LOGO] G•PAC
GUN VIOLENCE PREVENTION PAC

GUN SAFETY CANDIDATES ENDORSED
ILLINOIS GENERAL
ELECTION 2022

The G-PAC Board of Directors is proud to release its first round of endorsements leading up to the November 8, 2022 General Election.

To earn a gun safety endorsement, each candidate demonstrated strong support of the following policies:

- Banning assault weapons
- Banning large-capacity magazines (LCMs)
- Making ghost guns illegal, which G-PAC and Giffords helped pass into law earlier this year
- Funding community violence intervention programs
- Funding a gun storage public awareness campaign

Each endorsed candidate supports our #1 legislative priority when the General Assembly is called into session: banning assault weapons and large-capacity magazines. These weapons of war have been shown to contribute to both city violence and mass shootings.

RATING PROCESS

Endorsed candidates with a good questionnaire.

CONSTITUTIONAL OFFICERS

GOVERNOR and LT. GOVERNOR

GOV. JB PRITZKER and LT. GOV. JULIANA STRATTON

ATTORNEY GENERAL

AG KWAME RAOUL

SUPREME COURT

2ND DISTRICT

JUDGE ELIZABETH ROCHFORD

3RD DISTRICT

JUDGE MARY KAY O'BRIEN

GENERAL ASSEMBLY

STATE HOUSE INCUMBENTS

HD 1 – REP. AARON ORTIZ

HD 2 – REP. ELIZABETH "LISA" HERNANDEZ

HD 3 – REP. EVA-DINA DELGAGO

HD 6 – REP. SONYA HARPER*

HD 7 – REP. EMANUEL "CHRIS" WELCH

HD 9 – REP. LAKESIA COLLINS

HD 11 – REP. ANN WILLIAMS

HD 12 – REP. MARGARET CROKE

HD 14 – REP. KELLY CASSIDY

HD 15 – REP. MIKE KELLY*

HD 17 – REP. JENNIFER GONG-GERSHOWITZ

HD 18 – REP. ROBYN GABEL

HD 19 – REP. LINDSEY LA POINTE*

HB 23 – REP. EDGAR GONZALEZ, JR.

HD 24 – REP. THERESA MAH

HD 26 – REP. KAM BUCKNER

HD 27 – REP. JUSTIN SLAUGHTER*

HD 28 – REP. BOB RITA

HD 29 – REP. THADDEUS JONES*

HD 30 – REP. WILL DAVIS

HD 31 – REP. MARY FLOWERS

HD 32 – REP. CYRIL NICHOLS

HD 33 – REP. MARCUS EVANS

HD 34 – REP. NICK SMITH

HD 35 – REP. FRAN HURLEY

HD 36 – REP. KELLY BURKE

HD 38 – REP. DEBBIE MEYERS-MARTIN

HD 39 – REP. WILL GUZZARDI

HD 40 – REP. JAIME ANDRADE

HD 41 – REP. JANET YANG ROHR

HD 42 – REP. TERRA COSTA HOWARD

HD 43 – REP. ANNA MOELLER

HD 44 – REP. FRED CRESPO

HD 49 – REP. MAURA HIRSCHAUER
HD 50 – REP. BARBARA HERNANDEZ
HD 53 – REP. MARK WALKER
HD 55 – REP. MARTY MOYLAN
HD 56 – REP. MICHELLE MUSSMAN
HD 57 – REP. JONATHAN CARROLL
HD 58 – REP. BOB MORGAN
HD 59 – REP. DANIEL DIDECH
HD 61 – REP. JOYCE MASON
HD 78 – REP. CAMILLE LILLY
HD 81 – REP. ANNE STAVA-MURRAY
HD 85 – REP. DAGMARA "DEE" AVELAR
HD 98 – REP. NATALIE MANLEY*

<u>STATE HOUSE CHALLENGERS</u>
HD 13 – HOAN HUYNH*
HD 16 – KEVIN OLICKAL*
HD 21 – ABDELNASSER RASHID
HD 45 – JENN LADISCH DOUGLASS
HD 46 – DIANE BLAIR-SHERLOCK
HD 51 – NABEELA SYED*
HD 52 – MARY MORGAN
HD 54 – MARY BETH CANTY
HD 62 – LAURA FAVER DIAS*
HD 65 – LINDA ROBERTSON

HD 69 – PETER JAN KO

HD 75 – HEIDI HENRY

<u>STATE SENATE</u>

SD 2 – SEN. OMAR AQUINO*

SD 6 – SEN. SARA FEIGENHOLTZ

SD 7 – SEN. MIKE SIMMONS

SD 8 – SEN. RAM VILLIVALAM*

SD 9 – SEN. LAURA FINE

SD 10 – SEN. ROBERT MARTWICK*

SD 12 – SEN. CELINA VILLANUEVA*

SD 17 – SEN. ELGIE SIMS

SD 20 – SEN. CRISTINA PACIONE-ZAYAS

SD 21 – SEN. LAURA ELLMAN

SD 22 – SEN. CRISTINA CASTRO

SD 23 – SEN. SUZY GLOWIAK-HILTON

SD 25 – SEN. KARINA VILLA

SD 27 – SEN. ANN GILLESPIE

SD 28 – SEN. LAURA MURPHY

SD 29 – SEN. JULIE MORRISON

SD 30 – SEN. ADRIANE JOHNSON

SD 39 – SEN. DON HARMON

<u>STATE SENATE CHALLENGERS</u>

SD 1 – JAVIER LOERA CERVANTES*

SD 11 – MIKE PORFIRIO

SD 26 – MARIA PETERSON

SD 31 – MARY EDLY-ALLEN*

SD 43 – RACHEL VENTURA*

LOCAL OFFICE

COOK COUNTY BOARD PRESIDENT

BOARD PRES. TONI PRECKWINKLE*

COOK COUNTY SHERIFF

SHERIFF TOM DART*

COOK COUNTY BOARD OF COMMISSIONERS

2 – COMM. DENNIS DEER*

3 – COMM. BILL LOWRY*

6 – COMM. DONNA MILLER*

9 – MAGGIE TREVOR*

12 – COMM. BRIDGET DEGNEN*

13 – JOSINA MORITA*

14 – COMM. SCOTT BRITTON*

15 – COMM. KEVIN MORRISON*

16 – COMM. FRANK AGUILAR*

17 – DAN CALANDRIELLO*

*Received endorsement during primary election

Unsure of which State House and Senate districts you live in? Click here for a district locator.

[LOGO] G•PAC
GUN VIOLENCE PREVENTION PAC

G-PAC and Giffords PAC Celebrate 88 Victories in General Election

FOR IMMEDIATE RELEASE
Wednesday, November 9, 2022

G-PAC and Giffords PAC Celebrate 88 Victories in General Election

Endorsed Candidates Win Hotly-Contested Supreme Court Races, Build Supermajority in Illinois House

Chicago — The Gun Violence Prevention PAC Illinois (G-PAC), the state's leading political force in ending gun violence, and Giffords PAC are proud to announce the victories of 88 gun-safety candidates in races in Tuesday's general election. Chief among them are victories in both contested Illinois Supreme Court races as well as a pickup in the Illinois Senate and four pickups that build the supermajority in the Illinois House.

"Public safety was at the top of voters' minds, and they've made clear that gun safety champions are the ones they trust to hold elected office in Illinois. G-PAC congratulates the gun safety candidates who were victorious in the general election, particularly newly elected Supreme Court Justices Elizabeth Rochford

and Mary Kay O'Brien as well as Senator-elect Rachel Ventura and Representatives-elect Diane Blair-Sherlock, Nabeela Syed, Mary Beth Canty and Laura Faver Dias. We are proud to have built and defended the supermajorities in the Illinois legislature and helped elect Supreme Court justices who have earned our support," **said Kathleen Sances, President, and CEO of the Gun Violence Prevention PAC**. "Since we founded G-PAC in 2013, we have created an electoral and legislative infrastructure that has made Illinois a safer state, and today we are proud to build on that legacy with major victories all across the state. We are confident that these gun safety candidates will further strengthen Illinois' laws to help end the public health crisis of gun violence — including passing a statewide ban on assault weapons and large-capacity magazines as soon as possible."

"In recent years, leaders across Illinois have worked diligently to pass meaningful legislation and make the state a national leader in the fight to save lives and reduce high rates of gun violence. Voters across the state took another step forward in this effort by decisively reelecting Governor JB Pritzker, Lt. Gov Juliana Stratton, and Attorney General Kwame Raoul and solidifying Speaker Chris Welch's and Senate Majority Leader Don Harmon's gun safety supermajorities in the legislature," **said Sean Holihan, state legislative director at Giffords**. "Governor Pritzker has worked with legislators, law enforcement, and community partners to comprehensively address gun violence across the state by closing loopholes in the law and

investing in community violence intervention programs. Giffords looks forward to continuing to work with these courageous leaders to save lives by improving the state's gun laws."

Eighty eight endorsed candidates have won the general election with the support of G-PAC and Giffords PAC. The organizations were heavily involved in delivering victories in many contested races, including:

- Judge Elizabeth Rochford (Illinois Supreme Court, 2nd District)
- Justice Mary Kay O'Brien (Illinois Supreme Court, 3rd District)
- Sen. Laura Ellman (SD 21)
- Sen. Suzy Glowiak-Hilton (SD 23)
- Sen. Ann Gillespie (SD 27)
- Sen. Laura Murphy (SD 28)
- Rachel Ventura (SD 43)
- Rep. Janet Yang Rohr (HD 41)
- Rep. Terra Costa Howard (HD 42)
- Diane Blair-Sherlock (HD 46)
- Rep. Maura Hirschauer (HD 49)
- Nabeela Syed (HD 51)
- Mary Beth Canty (HD 54)
- Rep. Mark Walker (HD 53)
- Laura Faver Dias (HD 62)
- Rep. Anne Stava-Murray (HD 81)

In addition, Maggie Trevor is leading in the 9th District Cook Co. Commissioner race, which would also be a pickup on the Cook County Board.

In order to earn the endorsement of G-PAC and Giffords PAC, each candidate voiced their support of the organizations' top legislative priority: banning assault weapons and large-capacity magazines in Illinois. Looking toward veto and lame duck session before the 103rd General Assembly is sworn in this coming January, the gun violence prevention movement will be forcefully advocating to pass the measure into law.

G-PAC has already passed three landmark pieces of legislation in the past four years that make Illinois' gun laws some of the strongest in the nation, including:

- **GHOST GUNS LAW** (Public Act 102-0889): Criminals are using untraceable weapons to commit crimes without being caught, and law enforcement around the country has recovered an increasing number of ghost guns in recent years. G-PAC passed a law to make Illinois the first state in the Midwest – and only 12th in the nation – to make the transfer, purchase, manufacture, importation, and possession of ghost guns illegal.
- **BLOCK ILLEGAL GUN OWNERSHIP (BIO) LAW** (Public Act 102-0237): Our FOID Card system was broken, so G-PAC passed a law that expands background checks to all gun sales, creates a stolen gun database, requires the Illinois State Police to remove guns from people with revoked FOID cards, invests

in mental health funding, and more. This measure closes dangerous loopholes that supply the illegal guns fueling Illinois' gun violence epidemic.

- **GUN DEALER LICENSING LAW** (Public Act 100-1178): Unregulated gun dealers were operating in Illinois for far too long. Not anymore. G-PAC passed a law that requires all gun dealers to be certified by the Illinois State Police; mandates employee training, video surveillance, and inspection of all gun dealers; and requires state police to publish key information on crime-related firearms.

###

About Gun Violence Prevention PAC (G-PAC)

The Gun Violence Prevention Political Action Committee (G-PAC) is the state's leading gun violence advocacy organization. It was founded in 2013 to counter the political influence of the gun industry and their lobby in Springfield.

About Giffords PAC

Giffords is a nonprofit organization dedicated to saving lives from gun violence. Founded by former Congresswoman Gabrielle Giffords, Giffords PAC inspires the courage of people from all walks of life to make America safer.

MEDIA CONTACT: ahanns@kivvit.com