

J.B. Pritzker, Governor
State of Illinois



Delrice Adams, Executive Director
Illinois Criminal Justice Information Authority

2024 DOMESTIC VIOLENCE PRETRIAL PRACTICES WORKING GROUP FINAL REPORT: RECOMMENDATIONS FOR IMPROVING COURT PROCEDURES



ICJIA

**2024 Domestic Violence Pretrial Practices Working Group Final Report:
Recommendations for Improving Court Procedures**

A report to the Illinois Governor and General Assembly

Illinois Criminal Justice Information Authority
60 E. Van Buren St., Suite 650
Chicago, IL 60605
312-793-8550
www.icjia.illinois.gov

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Introduction

SAFE-T Act

The Illinois Safety, Accountability, Fairness, and Equity-Today Act (SAFE-T Act) was signed into law on February 22, 2021 by Illinois Governor JB Pritzker (Illinois Association of Chiefs of Police, 2022). The SAFE-T Act enacts criminal justice reform in critical justice system areas, including key reforms to policing, pretrial, and corrections practices (Reichert et al., 2021). On December 6, 2022, an amendment to the SAFE-T Act was signed that clarified language in the SAFE-T Act. It delineated that the court would have oversight of electronic monitoring and included trespassing violation guidelines (State of Illinois, 2022). All pretrial reforms outlined in the SAFE-T Act went into effect in Illinois on September 18, 2023 (Cook County Government, n.d.).

According to the Pretrial Justice Institute (2015), the pretrial phase begins at the time of arrest and concludes with the case's final disposition. During pretrial, decisions are made regarding arrest, release, detention, supervision conditions, charging, and pleas (Pilnik et al., 2017). Thus, pretrial reforms have important implications for victims of domestic violence and other forms of gender-based violence, including sexual assault and stalking. If domestic violence arrestees are released, research suggests they may be released with one or more conditions, such as being restricted from returning to a common residence, having a contact order, requiring counseling or drug treatment, and being electronically monitored (Sicilia, 2022).

In Illinois, the SAFE-T Act retained and expanded key provisions that protect domestic violence victims. Specifically, the Act did not change the fact that law enforcement officers retain the discretion to make arrests when responding to domestic violence incidents if they believe probable cause exists. However, it did make significant changes to the law and procedures around pretrial release and detention decisions for people accused of misdemeanor domestic violence offenses and order of protection violations, after they had been arrested. (725 ILCS 5/110-6.1). Prior to the Act's passing, people accused of misdemeanor domestic violence offenses could be released from police custody without first appearing before a judge. Under the Act, anyone accused of those offenses or other misdemeanor violations of stalking or civil no-contact orders must appear before a judge for a decision on pretrial release conditions or pretrial detention (725 ILCS 5/109-1).

In addition, people accused of these misdemeanor domestic violence offenses could not be denied pretrial release, though some people were detained in jail if they could not afford to pay a money bond or were being charged with multiple offenses (725 ILCS 5/110-6.1). Per the Act, people accused of misdemeanor domestic violence and order of protection violation offenses may be denied release outright when the prosecution files a petition for detention and a judge grants it (725 ILCS 5/110-6.1).

The court may consider the arrestee's domestic violence and substance use history, mental health, access to weapons, and severity of the offense when determining pretrial release conditions (725 ILCS 5/110-5). In addition, it may require the arrestee to be evaluated using an evidence-based risk assessment instrument (725 ILCS 5/110-5-b). Some risk assessment tools

specific to domestic violence that the Illinois Domestic Violence Pretrial Practices Working Group identified as being used in Illinois included the Danger Assessment, the Domestic Violence Screening Instrument, the Lethality Assessment Program, and the Ontario Domestic Assault Risk Assessment. These tools assess the risk of domestic violence victims being re-assaulted and/or killed by an intimate partner (John Hopkins School of Nursing, 2022; Richards et al., 2020; Waypoint Centre for Mental Health Care, 2022; Williams & Houghton, 2004). Many contain items that correspond to factors the SAFE-T Act states can be used in making a pretrial release determination, such as criminal history, substance use, gun ownership, and weapon use (Campbell, 2019; Richards et al., 2020; Waypoint Centre for Mental Health Care, 2022; Williams & Houghton, 2004).

Furthermore, an arrestee may need to surrender their firearms or be placed on electronic monitoring as a condition of their release (725 ILCS 5/110-10). Studies suggest that these conditions may increase victims' safety. Since firearm bans have been enacted, the number of domestic violence-related homicides has decreased (Zeoli et al., 2020). A study of global positioning system (GPS) monitoring, a form of electronic monitoring, found few instances in which a defendant charged with a domestic violence offense attempted to contact the victim during the pretrial phase (Erez et al., 2012). Furthermore, victims reported relief from abuse, an ability to expand the areas they visited, and reassurance that violations of the protection order would have consequences. Other research suggested that GPS monitoring increased safety for victims of family violence because law enforcement and the court were able to quickly respond to violations (Kirby, 2023).

Domestic Violence Pretrial Practices Working Group

The SAFE-T Act established the Domestic Violence Pretrial Practices Working Group and delineated three required working group activities (20 ILCS 3930/7.8). The group was to: a) convene at least quarterly, b) issue a preliminary report on current domestic violence pretrial practices within 15 months of the Act's effective date, and c) issue a final report on recommendations for evidence-based improvements to court procedures no later than 15 months after the preliminary report's release (20 ILCS 3930/7.8).

The working group formed in March 2022 and released their preliminary report on current domestic violence pretrial practices in March 2023 (Illinois Domestic Violence Pretrial Practices Working Group, 2023). The preliminary report reflected the working group's assessment of current domestic violence pretrial practices as of November 30, 2022. Specifically, the report detailed members' discussions of criminal justice system responses; of uses of risk and lethality assessments, education, and training for criminal justice professionals; and of pretrial data collection for domestic violence and related offenses. The assessments revealed strengths and opportunities for improvement. For example, members highlighted current initiatives for establishing lethality assessment protocols for domestic violence offenses in Illinois and expressed support for improved data collection processes. This report provides the working group's recommendations for making evidence-based improvements to court procedures and satisfies their statutory obligation to submit a final report detailing those recommendations.

Background

Membership

The working group is comprised of 12 members (*Table 1*). Illinois Criminal Justice Information Authority Executive Director Delrice Adams chaired the working group.

Table 1

Domestic Violence Pretrial Practices Working Group Membership List

Field	Name	Organization	Required
Administrative Office of the Courts	Wendy Venvertloh	Administrative Office of the Courts	Yes
ICJIA	Amanda L. Vasquez	ICJIA	Yes
Domestic violence victims' advocate	Amanda Pyron	The Network: Advocating Against Domestic Violence	Yes
Formerly incarcerated victims of violence	Willette Benford	Office of MK Pritzker	Yes
Legal practitioner	Jamie Mosser	Kane County State's Attorney's Office	Yes
Legal practitioner	Monique Patterson	The Law Office of the Cook County Public Defender	Yes
Legal practitioner	Sharlyn Grace	The Law Office of the Cook County Public Defender	Yes
Partner abuse intervention	Christine Call	Center for Advancing Domestic Peace	No*
Law enforcement	Eric Arnold	Illinois Law Enforcement and Training Standards Board	No*
Probation	LaTanya Hill	Kane County Court Services	No*
Court administration	Nicole Ticknor	17 th Judicial Circuit of Illinois	No*
Adult protective services	Carolyn Yuroff	Sangamon County State's Attorney's Office	No*

Note. *These individuals represent “other entities that possess knowledge of evidence-based practices surrounding domestic violence and pretrial practices in Illinois,” as required by 20 ILCS 3930/7.8.

Recent Activities

After the preliminary report's release, the working group convened 12 meetings to discuss recommendations for evidence-based improvements to court procedures. Meetings were held virtually via Webex on the following dates:

- Tuesday, March 14, 2023
- Monday, April 10, 2023
- Friday, June 30, 2023
- Friday, July 28, 2023
- Friday, August 25, 2023
- Friday, October 27, 2023
- Friday, December 15, 2023
- Friday, January 26, 2024
- Friday, March 1, 2024
- Friday, April 5, 2024
- Friday, May 31, 2024
- Friday, June 14, 2024

The content of working group meetings included future meeting topics, guided discussions on identified meeting topics, recommendations and final report discussions, and approval of the final report. Topics were directly informed by prior working group discussions of current domestic violence pretrial practices. Members expanded on recommendations that had emerged during their earlier discussion of pretrial practices. All ideas were organized by theme and corresponded to four topic areas: system responses, risk and lethality assessments, education and training, and data collection.

Four guided discussions by topic area were facilitated. For each idea, members considered gaps, opportunities, best practices, barriers, and potential recommendations. For example, during the July 2023 working group meeting, members engaged in a facilitated discussion of risk and lethality assessments. They discussed two subtopics: specific domestic violence or gender-based violence tools and funding for the evaluation of lethality or risk assessment tools. In discussing these subtopics they considered the availability of different tools, strengths of and concerns with tools, resource needs, and examples or case studies of where tools were being implemented and evaluated successfully.

To identify recommendations for the final report, members were presented with a summary of the 12 recommendations that had emerged during guided discussions of the four topic areas. They participated in a robust discussion and identified the most critical recommendations for inclusion in the final report.

Working Group Recommendations

The domestic violence pretrial practices working group provided the following eight recommendations for improving domestic violence pretrial practice court procedures.

Recommendation #1

Provide more education on firearms to domestic violence pretrial practice stakeholders, including how to document access to firearms and the availability of remedies and protections, such as firearm restraining orders, orders of protection, and clear and present danger reporting.

The working group identified several remedies and protections available to domestic violence victims and stakeholders. These included:

- **Firearm restraining orders (FRO):** Relatives, former or current spouses, those who share a child, and household members may petition for a FRO to temporarily restrict an individual's ability to purchase or possess firearms (430 ILCS 67/5). In addition, FROs allow for removal of the individual's firearm owner's identification (FOID) card (430 ILCS 67/35-g; 430 ILCS 67/40-h). A petition for either an emergency FRO, valid for up to 14 days, or a six-month FRO can be filed when an individual is believed to be a danger to themselves or others (430 ILCS 67/35a, i; 430 ILCS 67/40a, g).
- **Orders of protection:** An individual who has been abused by a family or household member may file a petition for an order of protection (750 ILCS 60/201). An order of protection restricts the accused individual's behavior, such as prohibiting abuse, intimidation, or harassment or it compels them to take certain actions, like relinquishing firearms (750 ILCS 60/214). Emergency protective orders may be granted for up to 21 days, and plenary protective orders may be issued for up to two years (750 ILCS 60/220).
- **Clear and present danger reporting:** Law enforcement, school administrators, as well as physicians, clinical psychologists, and qualified examiners are required to file a report on any individuals who are clear and present dangers to themselves or others within 24 hours (430 ILCS 65/8.1-d). Individuals pose a clear and present danger if they communicate a serious threat of physical violence against a victim, if they pose an imminent risk of serious physical injury to themselves or others, or if they engage in threatening behavior (430 ILCS 65/1.1). Individuals determined to be a clear and present danger must have their FOID card revoked or their FOID card application denied (430 ILCS 65/8).

Working group members recommended educating stakeholders in domestic violence pretrial practices, such as first responders and practitioners, about mechanisms for limiting domestic violence offender's access to firearms. In addition, the group recommended that first responders ask about the accused's history of firearm use and current access. Increased awareness of an accused's firearm history and firearm-related protections can result in greater access to protections for domestic violence victims, thus, increasing their sense of safety and decreasing the likelihood that a firearm could be used to harm them.

Recommendation #2

Improve communication between family court and criminal justice systems, such as misdemeanor, felony, and juvenile court (e.g., delinquency; abuse and neglect).

The working group identified a lack of communication and information exchange between family court and criminal justice systems as impediments to the safety of victims and their children. Individuals may be involved in multiple court processes. Without an exchange of information between different courts, such as family, misdemeanor, felony, and juvenile courts, decisions may be made in one court that negatively impact proceedings and outcomes in another court. Specifically, a victim being misidentified as an abuser in criminal court may adversely affect decisions made in family court. Furthermore, members cautioned that in some instances the abuser may use the criminal justice system to further harm victims. Research suggests that abusers may perpetrate legal abuse by intentionally lengthening cases through needless legal motions, by providing false information to the court, or by seeking child custody or visitation to exert control over the victim (Gutowski & Goodman, 2023).

The group also contemplated the difficulty in discerning between the abuser and victim and noted that there may be overlap. According to Gleicher (2021), female victims who abuse their partners may do so in self-defense or, in relationships where violence is reciprocal, to regain a sense of power and control. The working group observed that the individual identified as the victim may correspond to who first contacted law enforcement whether or not they were the sole or primary abuser.

Better communication across systems can help ensure that the court has the necessary information to identify the abuser. For example, if the state's attorney has access to an arrestee's abuse history, that can help them to develop a fuller picture of circumstances leading up to the individual's arrest, including if the arrestee has a history of being abused by the individual who contacted law enforcement. The state's attorney can then use this information in deciding whether to move forward with or to dismiss charges. Thus, improved communication and the exchange of information help to ensure that family court and criminal justice systems can make informed decisions that increase victims' safety.

Recommendation #3

Identify risk and lethality indicators to be gathered by law enforcement, state's attorneys, pretrial officers, and other criminal justice system stakeholders, and provide accompanying training.

The working group recognized the critical nature or importance of identifying specific risk and lethality indicators. Law enforcement, state's attorneys, pretrial officers, and the judiciary need to gather information about these indicators. The information gathered by law enforcement and police reports are used to inform the court process. Members asserted that having such a document is crucial because police reports do not typically contain the information necessary to determine if a victim is at risk of being re-abused or killed. Judges rely on reports from pretrial services and evidence presented in a hearing to set pretrial conditions. In addition, members

noted the limited time available to talk with the victim on scene. Therefore, having a document with a list of indicators to ask or assess would help to ensure the information is gathered. The period between arrest and the detention decision is also very short, with little time for the court to obtain additional information from the victim. This short time span further necessitates that law enforcement collect information that is comprehensive and indicates risks.

Working group members pointed to existing risk and lethality assessment tools from which specific indicators could be drawn. These include the [Danger Assessment](#), the Domestic Violence Screening Instrument (DVSI), the Ontario Domestic Assault Risk Assessment (ODARA), and the Lethality Assessment Program. The above tools are not an exhaustive list of available resources and measure risk of recidivism or lethality. Members noted that both the Danger Assessment and the ODARA seek information from the victim, whereas the DVSI does not. They asserted that it was critical to hear directly from the victim when assessing risk and lethality.

The working group also identified some potential risk and lethality indicators to include in a document provided to law enforcement. These indicators cover whether the victim feared for their safety, children were present, weapons were in the home or could be accessed by the accused, and the accused had a criminal history. To facilitate utilization of a risk and lethality document as a supplement to police reports in domestic violence incidents, members further recommended formalized training for law enforcement on the document. They also recommended for the training to highlight how gathering information on risk and lethality indicators enables officers to make more informed arrest decisions and helps the court make better decisions regarding detention or release. For example, certain indicators may be used as support for detaining an individual accused of a domestic violence offense, thus minimizing potential risk to the victim.

Recommendation #4

Consult with victims to identify best practices for law enforcement to obtain information necessary for assessing risk and lethality in their response to domestic violence incidents and integrate those practices within required law enforcement training programs.

The working group underscored the importance of consulting with victims to determine best practices for obtaining information on risk and lethality indicators when law enforcement responds to domestic violence incidents. Enhanced training, policies, and protocols for law enforcement professionals should be adopted with the goal of addressing risk and lethality and victims' trauma, as well as eliminating secondary victimization. Specifically, law enforcement professionals need to be educated on the questions that may cause further harm to the victim. Research has shown that some victims experience secondary victimization; this involves feeling re-traumatized due to negative interactions with others in which the victim may be blamed or questions may be asked insensitively (Kolis & Houston-Kolnik, 2018).

Members reflected on ways in which they had observed victims' perspectives incorporated or elevated in their professional work. One example was a victim impact panel, in which several victims meet with a group of offenders, none of whom harmed the victims on the panel

(Maryfield et al., 2020). The victims share their victimization experiences and the impacts of these experiences on themselves, their families, and friends. Members also promoted incorporating victims' perspectives into training curricula. For example, training curricula could incorporate approaches for obtaining risk and lethality information from domestic violence victims in ways that minimize the potential for additional traumatization. A good way to identify these approaches is to consult with victims and then integrate their input into the required law enforcement trainings.

Recommendation #5

Increase the use of risk and lethality assessments by judges and state's attorneys in domestic violence pretrial decision-making, such as in filing a petition to detain and in determining whether to release or detain domestic violence arrestees.

The working group stated that more judges and state's attorneys should use risk and lethality assessment tools to inform their decision-making during pretrial for domestic violence offenses. Arrestees held for an initial appearance hearing may be assessed using a validated domestic violence risk assessment tool (Illinois Supreme Court Implementation Task Force, 2022a). The risk assessment can be used by judges to assist them in deciding whether to detain or release the accused at a future hearing, such as at an initial appearance or detention hearing (Chicago Alliance Against Sexual Exploitation, 2023). They may also be used to determine release conditions, which may include restricting access to firearms and to defined geographic locations and prohibiting contact with specific individuals (Illinois Supreme Court Implementation Task Force, 2022b).

Working group members asserted that risk assessments and scoring should become part of the accused individual's record. The assessment should then be considered by the state's attorney when deciding whether to file a petition to detain. Members acknowledged that the results of a risk assessment alone cannot be used to detain the accused individual (Illinois Supreme Court Implementation Task Force, 2022c), but they affirmed that they should be used by the judge to help make that determination. Furthermore, state's attorneys and judges should document when they are using a risk assessment to assist with decision-making. Also, outcomes for domestic violence cases in which risk assessments are used to inform pretrial decisions should be compared to cases in which they are not used.

Recommendation #6

Explore processes for amending legislation to require law enforcement to include identified risk and lethality indicators in police reports when responding to domestic violence calls.

The working group asserted legislative changes would be needed to ensure that risk and lethality indicators would be collected by law enforcement when responding to domestic violence calls and documented in police reports. They described local and regional initiatives that had attempted to improve safety for victims, including the use of risk and lethality tools and indicators, stressing that they were limited in scope (e.g., limited or localized adoption). For example, two members reflected on having recently participated in an initiative in which a form

was developed for law enforcement that drew risk indicators from the ODARA and that included lethality indicators. Yet, despite efforts to provide training on the form, utilization of the form is inconsistent within and across police jurisdictions. Group members asserted that a mandate requiring law enforcement to use it was needed to increase utilization.

The working group identified the Illinois Domestic Violence Act (IDVA) as a statute that could be modified to require law enforcement to include domestic violence-related risk and lethality indicators in police reports. First enacted in 1982, the IDVA outlines domestic violence victims' legal protections (750 ILCS 60/Art. II). It also delineates law enforcement responsibilities when responding to a domestic violence incident (750 ILCS 60/Art. III). Some responsibilities include arresting the accused, if appropriate; documenting the incident in a police report; assisting the victim with transportation to a safe place or medical facility; and making a record of any weapons used during the incident (750 ILCS 60/304).

Members suggested that the law enforcement responsibility section of the IDVA could be amended to require law enforcement to document risk and lethality indicators, with the exact indicators identified. Delineating indicators in the statute would help to ensure that law enforcement receive training on obtaining and documenting risk and lethality indicators and be held accountable. However, members contended that any proposed changes to the IDVA should be done in direct consultation with victim services stakeholders in an effort to ensure that changes to law enforcement responsibilities increase victim safety and reduce secondary victimization. These stakeholders should include the [Illinois Coalition Against Domestic Violence](#), an organization of more than 50 Illinois domestic violence service providers (Illinois Coalition Against Domestic Violence, n.d.), and the [Illinois Coalition Against Sexual Assault](#), a network of 30 sexual assault crisis centers (Illinois Coalition Against Sexual Assault, n.d.). In addition, criminal justice stakeholders should consider new legislation that would amend pretrial reform provisions in the SAFE-T Act to further institutionalize the practice. Provisions should specify risk and lethality indicators that law enforcement must document in police reports.

Recommendation #7

Expand the implementation of local and regional domestic violence pretrial practice best practice initiatives.

The working group discussed various promising initiatives for local and regional domestic violence pretrial practices that, if expanded, could increase victim safety. These initiatives were primarily focused on risk and lethality assessment tools. One promising practice was Winnebago County's use of risk and lethality indicators in responding to domestic violence cases. The county has a domestic violence coordinated court system comprised of a dedicated domestic criminal court and domestic violence civil court (Center for Court Innovation, n.d.). The Domestic Violence Screening Instrument is used by the court's pretrial services department to inform decision-making. The Winnebago County pretrial services division reported conducting 1,004 domestic violence risk assessments in 2021 (17th Judicial Circuit Court, n.d.). In addition, the Rockford Police Department, located in Winnebago County, established a policy for responding to domestic violence calls that required law enforcement to screen for lethality and submit the screening form to the agency (Rockford Police Department, 2020). Should a domestic

violence victim appear to be in high danger, then law enforcement is to direct them to speak with a domestic violence agency or hotline advocate. In August 2023, a strangulation supplement was added, to be used in calls where strangulation is alleged or suspected. Members asserted that the practices in Winnebago County should be expanded to other Illinois counties.

The working group referenced another initiative in which Kane County developed a form for law enforcement to use to assess risk and lethality when responding to domestic violence incidents in this county. The Illinois Supreme Court selected Kane County as a pilot site to receive technical assistance to assist with the implementation of pretrial reforms outlined in the SAFE-T Act (Center for Effective Public Policy & Justice System Partners, 2022). The county's court services department anticipated that more than three-quarters of detention eligible offenses would be related to domestic violence after the SAFE-T Act's effective date.

To prepare for this shift, stakeholders in Kane County developed a form for law enforcement professionals to complete when making a domestic violence related arrest and then to include it with charging documents. The purpose of the supplemental form was to capture additional offense information, including information that could be used by court services to complete the Ontario Domestic Assault Risk Assessment (Center for Effective Public Policy & Justice System Partners, 2022). However, members reflected that utilization of the supplemental form in Kane County has been limited. They recommended that law enforcement professionals should consistently use the form when responding to domestic violence incidents. Furthermore, for best practices, information contained in the form should be shared with court services to inform the court's assessment of domestic violence arrestees and its decision to detain.

Recommendation #8

Systematically gather domestic violence pretrial data on detention petitions, arrestee release and detention, and rearrest.

The working group recommended that the courts systematically collect specific domestic violence pretrial data. These data elements include:

- # of petitions to detain filed.
- # of arrestees charged with detention eligible offenses who were released.
- # of arrestees charged with detention eligible offenses who were detained.
- # of detention eligible arrestees who were released and then rearrested for a domestic violence offense, including the rearrest rate.

Members stated that to provide crucial information about the initial appearance hearing it was important to capture whether a petition to detain was filed. They also recommended that all the data listed above should be made available by jurisdiction or judge to help inform how detention and release decisions vary across Illinois. Furthermore, there may be a benefit to considering how the comprehensiveness of police reports and the training offered by local jurisdictions may be impacting the court's decision to detain a domestic violence arrestee.

Conclusion

The Domestic Violence Pretrial Practices Working Group, established by the SAFE-T Act, identified recommendations for making evidence-based improvements to court procedures. In their recommendations, members stressed the importance of criminal justice stakeholders utilizing risk and lethality assessment tools in their responses to domestic violence incidents. This proposed use of tools spans from law enforcement's initial interactions with victims through state's attorneys and judges' pretrial decision-making. Other recommendations emphasized the crucial role that domestic violence victims should have in shaping practices and the value of expanding promising local and regional initiatives. Furthermore, working group members recognized the need to collect data on pretrial practices to continue to inform improvements to court procedures.

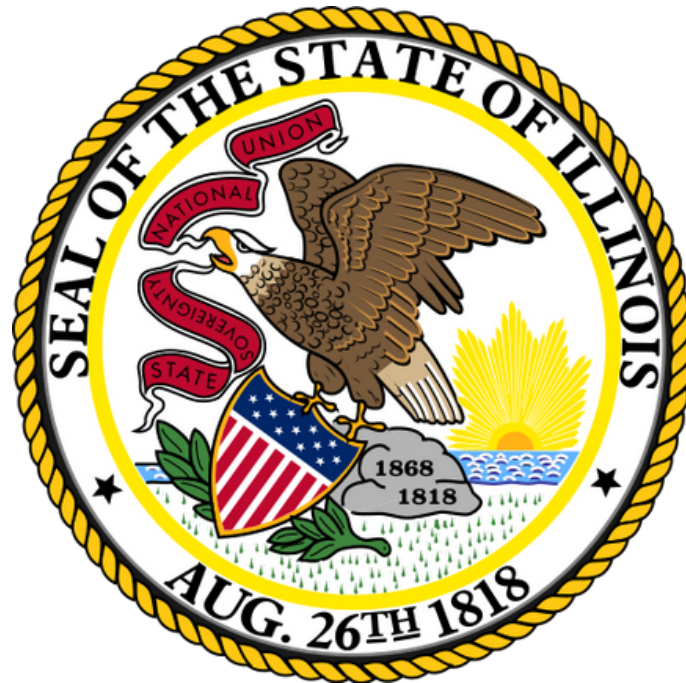
This report satisfies the working group's statutory obligation to submit a final report detailing domestic violence pretrial practice court recommendations. As a next step, criminal justice stakeholders, including law enforcement, state's attorneys, and judges, may want to examine the changeability and importance of each recommendation. In considering changeability they can explore the availability of resources and the need for other resources and supports, including the likelihood that they can be obtained. Such an assessment can help stakeholders determine which recommendations to prioritize for implementation. The implementation of one or more working group recommendations has the potential to improve not only domestic pretrial practice court procedures but also to increase domestic violence victims' safety and, thus, benefit Illinois residents who are directly or indirectly impacted by domestic violence.

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Illinois Criminal Justice Information Authority

60 E. Van Buren Street, Suite 650

Chicago, Illinois 60605

Phone: 312.793.8550

Fax: 312.793.8422

TDD: 312.793.4170

icjia.illinois.gov