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## NATURE OF THE ACTION

This 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. The Act contains a number of provisions that regulate firearms in this State. Relevant here, it restricts the sale, purchase, manufacture, and possession of assault weapons, 720 ILCS 5/24-1.9 and “large capacity ammunition feeding device[s]” (“large capacity magazines” or “LCMs”), 720 ILCS 5/24-1.10. Through these provisions, 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.

The Act’s provisions restricting the purchase, sale, and possession of assault weapons and LCMs contain two types of exemptions. First, individuals who possessed assault weapons before the Act’s passage may retain them, so long as they disclose their ownership to the Illinois State Police by January 1, 2024 — although they may not obtain new assault weapons. Similarly, individuals may continue to possess LCMs that they owned before the Act’s passage. Second, the Act’s purchase and possession restrictions on assault weapons and LCMs do not apply to seven enumerated categories of professionals. Those professionals — including law enforcement officers, corrections officials, members of the military, and qualified security officers — are required by law to undergo firearms training and qualifications. Three of

the seven exemptions (for the military, qualified security guards, and guards at nuclear facilities) limit the possession of assault weapons and LCMs to the scope of official duties.

Plaintiffs are individuals and businesses who currently possess, and “desire” to sell and purchase, assault weapons and LCMs. They claimed that the Act as a whole, and its provisions restricting purchase, sale, and possession of assault weapons and LCM specifically, violate various provisions of the Illinois Constitution — although they did not claim that they violated their right to bear arms under either the federal or Illinois Constitution. The circuit court rejected plaintiffs’ challenges to the Act as whole, and granted defendants summary judgment on those claims. But the circuit court granted summary judgment to plaintiffs on their claims that the exemptions violated the Illinois Constitution’s equal protection and special legislation clauses, and declared the assault weapons and LCM restrictions invalid on that basis. Defendants appealed directly to this Court under Rule 302(a).

**JURISDICTION**

This Court has jurisdiction over this direct appeal under Supreme Court Rule 302(a). The circuit court granted the plaintiffs' motion for summary judgment and issued a declaration that the Act's assault weapons and LCM restrictions were unconstitutional, which contained the findings required by Rule 18, on March 3, 2023. A1-2. Defendants filed a notice of appeal in the circuit court on the same day, A3-7, which was timely under Rule 303(a)(1).

## **ISSUES PRESENTED FOR REVIEW**

1. Whether the Act's provisions restricting the purchase, sale, and possession of assault weapons and LCMs violate the equal protection clause of the Illinois Constitution because: (1) plaintiffs did not show that they were treated differently from, or similarly situated to, individuals within the Act's exemptions; (2) neither the Second Amendment to the United States Constitution nor the Illinois Constitution's right to bear arms in Article I, Section 22 is a fundamental right for purposes of an equal protection claim, meaning that rational basis review rather than strict scrutiny should apply; and (3) the assault weapons and LCM restrictions, and their exemptions, satisfy rational basis review.

2. Whether, for the same reasons, the Act's provisions restricting the purchase, sale, and possession of assault weapons and LCMs violate the special legislation clause of the Illinois Constitution.

**STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED**

This appeal concerns the constitutionality of provisions restricting the purchase, sale, and possession of assault weapons and LCMs in 720 ILCS 5/24-1.9 and 720 ILCS 5/24-1.10, which were created by the Act, Pub. Act 102-1116. Relevant portions of the statutory text are in the appendix to this brief. A12-30.

The relevant constitutional provisions are Article I, Section 2 of the Illinois Constitution (equal protection); Article I, Section 22 of the Illinois Constitution (state right to bear arms); Article IV, Section 13 of the Illinois Constitution (special legislation); and the Second Amendment to the United States Constitution (federal right to bear arms). The text of these provisions is also in this brief's appendix. A12.

## STATEMENT OF FACTS

### **The Protect Illinois Communities Act, Pub. Act 102-1116**

On July 4, 2022, a shooter opened fire at an Independence Day parade in Highland Park, Illinois, killing 7 and wounding 48.<sup>1</sup> Hospitals were overwhelmed,<sup>2</sup> and nearby communities were paralyzed.<sup>3</sup> In response to this tragedy, the General Assembly determined that statewide measures were needed to protect Illinois residents from the ever-increasing dangers of such mass shootings, and began the process of researching, drafting, and debating legislation.<sup>4</sup> After multiple public hearings,<sup>5</sup> the General Assembly passed the Act, which contains several provisions designed to address gun violence.

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<sup>1</sup> Tina Sfondeles, *State legislators urged to outlaw assault weapons: 'If we don't do something about this, shame on us,'* Chi. Sun-Times, <https://chicago.suntimes.com/2022/12/12/23505898/assault-weapons-ban-highland-park-state-legislators-judiciary-large-capacity-magazines> (updated Dec. 12, 2022) (A33). This court may take judicial notice of readily verifiable historical facts. *See, e.g., People v. Johnson*, 2021 IL 125738, ¶ 54; *People v. Henderson*, 171 Ill. 2d 124, 134. For the Court's convenience, the sources for these judicially noticeable facts are included in the appendix. *See* A31-47.

<sup>2</sup> Lisa Schencker, *Highland Park Hospital doesn't see many victims of gun violence. Then July Fourth happened. Here's how the day unfolded.*, Chi. Tribune, <https://www.chicagotribune.com/business/ct-biz-highland-park-hospital-july-4-shooting-20220814-3pclhoiv3zcp7itr2riy6g6wq-story.html> (Aug. 14, 2022) (A35-41).

<sup>3</sup> *Surrounding Suburbs Cancel 4th of July Events in Wake of Highland Park Parade Shooting*, NBC5 Chi., <https://www.nbcchicago.com/news/local/surrounding-suburbs-cancel-4th-of-july-events-in-wake-of-highland-park-parade-shooting/2872806/> (Jul. 4, 2022) (A42-44).

<sup>4</sup> Sfondeles, *State legislators urged to outlaw assault weapons*, *supra* n.1 (A33).

<sup>5</sup> *Id.*; Tina Sfondeles, *Illinois assault weapons ban advances after Democratic deal, echoes of a child's screams*, Chi. Sun-Times, <https://chicago.suntimes.com/2023/1/9/23547414/assault-weapons-ban-illinois-state-senate-harmon-highland-park-harmon-pritzker-welch> (Jan. 10, 2023) (A46).



Relevant here, the Act added new provisions to the Criminal Code that restrict the purchase, sale, and possession of assault weapons and LCMs. Pub. Act 102-1116 § 25 (adding 720 ILCS 5/24-1.9 and 720 ILCS 5/24-1.10). Beginning on January 10, 2023 — the Act’s effective date — the Act prohibits the purchase and sale, along with manufacture, delivery, and import, of assault weapons, except sales to persons in other States or to those authorized to acquire them pursuant to the Act’s enumerated exemptions for certain professionals. 720 ILCS 5/24-1.9(b); *see* Pub. Act. 102-1116 § 99 (effective date). The Act also prohibits possession of assault weapons beginning on January 1, 2024, although it contains a “grandfather” provision, whereby persons who lawfully possessed assault weapons before January 10, 2023, may continue to possess them as long as they provide an endorsement affidavit to the Illinois State Police by January 1, 2024.<sup>6</sup> *Id.* 5/24-1.9(c)-(d).<sup>7</sup> The Act’s restrictions on LCMs are similar, except that the restriction on possessing LCMs takes effect on April 10, 2023, and individuals need not obtain endorsement affidavits for LCMs they owned prior to the Act’s effective date. *Id.* 5/24-1.10(b)-(d).

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<sup>6</sup> An endorsement affidavit is a form that identifies the weapon, affirms that the individual owned it before January 10, 2023, 720 ILCS 5/24-1.9(d), and is executed electronically through the individual’s Firearm Owner’s Identification Card account, 430 ILCS 65/4.1.

<sup>7</sup> Similarly, those who inherit a lawfully owned assault weapon may retain it upon providing an endorsement affidavit. *See* 720 ILCS 5/24-1.9(d)(2)(ii).

In addition to the “grandfather” provision, the Act contains seven enumerated exemptions to the possession and purchase restrictions. Four of the exemptions cover those affiliated with law enforcement (law enforcement agencies, peace officers, corrections officials, and current and retired law enforcement officers qualified under the federal Law Enforcement Officers Safety Act, as implemented by Illinois law) who are required by law to receive firearms training and qualifications. *Id.* 5/24-1.9(e)(1)-(4) & 5/24-1.10(e)(1)-(4). The three remaining exemptions cover three other types of professionals, who also receive firearms training (members of the military and National Guard, licensed private security guards, and guards at nuclear facilities) and permits them to possess assault weapons and LCMs, but only to the extent required by their official duties. *Id.* 5/24-1.9(e)(5)-(7) & 1.10(e)(5)-(7).

### **Plaintiffs’ complaint**

On January 26, 2023, plaintiffs filed a verified complaint in the circuit court. C10. Plaintiffs consist of a voluntary unincorporated association — which in turn appears to consist of hundreds of individuals and businesses, C44-56, C356-71, who possess Firearms Owners Identification (“FOID”) cards, C11 — along with two separately named individuals and one separately named business, C10-12. Plaintiffs alleged that they currently possess, and “desire” to purchase and sell, assault weapons and LCMs. C10-11. They sought declaratory and injunctive relief based on six constitutional claims. *See* C15-41.

In counts I-III, plaintiffs claimed violations of the Illinois Constitution based on purported defects in the legislative process. Specifically, they claimed that the Act violates the single subject rule in Article IV, Section 8(d); the three readings requirement in Article IV, Section 8(d); and their procedural due process rights allegedly encompassed by those legislative requirements. C15-26.

In count IV, plaintiffs claimed that the seven enumerated exemptions to the purchase and possession restrictions in 720 ILCS 5/24-1.9(e) and 1.10(e) violate the Illinois Constitution's equal protection clause, Ill. Const. art. I, § 2. C35-37. In particular, they asserted that the exemptions warrant strict scrutiny because they burden the "right to bear arms as guaranteed by the Illinois constitution," C33, which they claimed is fundamental for equal protection purposes, C34. Plaintiffs alleged that those in the exempted professions were "seemingly a protected class based upon their occupations," and that it "defies comprehension" to exempt individuals "based on their employment status." C35. In count V, plaintiffs similarly attacked the exempted professions as violating the Illinois Constitution's special legislation clause, Ill. Const. art. IV, § 13. C37-38.

In count VI, plaintiffs raised a regulatory taking claim. C40-41. Plaintiffs added a seventh claim for injunctive relief. C39-40. The following day, plaintiffs filed a motion for a temporary restraining order ("TRO") to

prevent enforcement of the assault weapons and LCM restrictions against them. C165-70.

***Accuracy Firearms v. Pritzker***

Less than a week after plaintiffs filed their complaint and TRO motion in this case, on January 31, 2023, the Illinois Appellate Court, Fifth Judicial District, issued an opinion in *Accuracy Firearms, LLC v. Pritzker*, 2023 IL App (5th) 230035, *as modified* (Feb. 10, 2023). The plaintiffs in *Accuracy Firearms* brought nearly identical equal protection, single subject, three readings, and due process claims to those in this case. *See* C12 (acknowledging that allegations here are materially identical to those in *Accuracy Firearms*); *see also Accuracy Firearms*, 2023 IL App (5th) 230035, ¶¶ 7-10. The circuit court in that case had entered a TRO enjoining enforcement of the assault weapons and LCM restrictions against those plaintiffs, after concluding that they would likely succeed on the merits of those claims. *See id.* at ¶ 15.

The appellate court in *Accuracy Firearms* affirmed that TRO in a 2-1 decision. *Id.* at ¶ 67.<sup>8</sup> The appellate court first disagreed with the circuit court that the plaintiffs were likely to succeed on their single subject, three readings, and due process claims. *Id.* at ¶¶ 21-47. On the single subject claim, it ruled that each challenged provision was related to the Act’s single subject of “regulation of firearms.” *Id.* at ¶¶ 21-35. And the three readings and due

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<sup>8</sup> Although the appellate court in *Accuracy Firearms* described its decision as “affirm[ing] in part” the circuit court’s order, it left the TRO in place in its entirety. 2023 IL App (5th) 230035, ¶¶ 67-68.

process claims were foreclosed by this Court’s precedent. *Id.* at ¶¶ 36-47.

Thus, as a matter of law, the plaintiffs in *Accuracy Firearms* could not succeed on those claims. *Id.* at ¶¶ 41, 47.

But on the plaintiffs’ equal protection claim, the appellate court ruled that the Illinois Constitution’s right to bear arms in Article I, Section 22, was fundamental for purposes of that claim, and thus required strict scrutiny. *Id.* at ¶¶ 57-58. In so holding, the majority expressly declined to follow this Court’s decision in *Kalodimos v. Village of Morton Grove*, 103 Ill. 2d 483 (1984). *Accuracy Firearms*, 2023 IL App (5th) 230035, ¶¶ 52-56. In that case, this Court held that the rights to bear arms secured by both the United States and Illinois Constitutions nor were not fundamental for equal protection purposes. *See Kalodimos*, 103 Ill. 2d at 509-10. The Court then rejected an equal protection challenge to a municipality’s firearms regulation after applying rational basis review. *See id.* at 510-11.

The *Accuracy Firearms* majority, however, stated that *Kalodimos* was wrongly decided and that this Court had “abandoned” it in subsequent decisions. *Accuracy Firearms*, 2023 IL App (5th) 230035, ¶¶ 51-57. As support, the majority cited four decisions — none involving equal protection — that considered firearms regulations challenged under the federal Constitution’s Second Amendment. *Id.* at ¶¶ 52-56. In particular, the majority reasoned that this Court’s decision in *Guns Save Life, Inc. v. Ali*, 2021 IL 126014 — which held that the Second Amendment was fundamental

for purposes of the Illinois Constitution’s uniformity clause, *id.* at ¶ 28; *see* Ill. Const. art. IX, § 2 — meant that the Second Amendment was also fundamental for equal protection purposes. *Accuracy Firearms*, 2023 IL App (5th) 230035, ¶¶ 53-56. Based on this conclusion, the majority ruled that the right to bear arms under the Illinois Constitution was also fundamental for equal protection purposes because otherwise, in its view, the Illinois Constitution would afford less protection than the federal one. *Id.* at ¶¶ 56-57. Finally, the majority decided, the seven enumerated exemptions for some professionals did not satisfy strict scrutiny, because it was possible that some of the plaintiffs might be as well trained in firearms use and safety as those exempted. *Id.* at ¶¶ 58-62.

One justice dissented. *See id.* at ¶¶ 69-84. Relevant here, the dissent first noted that the majority failed to apply this Court’s controlling precedent by not considering whether the *Accuracy Firearms* plaintiffs were similarly situated to those in the Act’s exempted categories, a threshold issue in any equal protection claim. *Id.* at ¶ 77 (citing *People v. Masterson*, 2011 IL 110072). As the dissent explained, although the plaintiffs hypothesized that some individuals might have similar firearms training to those exempted, they did not allege that they were such individuals. *Id.* Thus, the dissent noted, the equal protection claim should have failed at the outset. *Id.*

Second, the dissent disagreed that this Court had silently overruled *Kalodimos* and noted that the appellate court “did not have the authority” to

make that pronouncement. *Id.* at ¶ 83. And, the dissent explained, because this Court in *Kalodimos* squarely held that, for an equal protection claim, the right to bear arms is not fundamental, the majority should not have applied strict scrutiny. *Id.* at ¶ 82. As a result, the dissent concluded, the plaintiffs could not succeed on their equal protection claim. *Id.* at ¶¶ 78, 84.

### **Circuit court proceedings following *Accuracy Firearms***

Shortly after the *Accuracy Firearms* decision, defendants in this case responded to plaintiffs' TRO motion, acknowledging the *Accuracy Firearms* decision. C307. The same day, plaintiffs filed a supplemental memorandum in support of their TRO request, arguing that *Accuracy Firearms* was dispositive as to their equal protection claim, as well as their special legislation claim, which is governed by the same legal standards. C236, C239. Plaintiffs also argued, for the first time, that the Act's "grandfather" provision — which allows those who already possess assault weapons and LCMs to continue to possess them so long as they provide an endorsement affidavit for any assault weapons to the Illinois State Police before January 1, 2024, and which was not at issue in *Accuracy Firearms* — also violates the equal protection and special legislation clauses. C240.

The circuit court entered a TRO based on *Accuracy Firearms*, C354-55, and plaintiffs later voluntarily dismissed their regulatory takings claim, C488. Defendants then moved for summary judgment on the single subject, three readings, and due process claims, arguing that those challenges were

foreclosed by binding precedent, as *Accuracy Firearms* had underscored.

C491-502. Defendants added that the separate count for an injunction was not a proper standalone cause of action. C502.

As relevant here, plaintiffs moved for summary judgment on the other two claims: equal protection and special legislation. C505-15. Plaintiffs acknowledged that they were not challenging the State’s authority to regulate assault weapons and LCMs generally, but rather they were challenging only the exemptions. C507. Specifically, plaintiffs asserted that, based on *Accuracy Firearms*, it was “fact” that plaintiffs were similarly situated to individuals in the exempted professions, C510, and suggested that they were equally qualified to possess assault weapons as the exempted professionals because they held FOID cards, C507. And, they argued, *Accuracy Firearms* held that the Illinois Constitution’s right to bear arms was fundamental, and thus mandated strict scrutiny. *See* C508. Moreover, plaintiffs argued — for the first time — that the Second Amendment to the United States Constitution was also fundamental for purposes of an equal protection claim. C507; *see* C508, C512-13.

Plaintiffs also reiterated their other new contention: that the Act’s “grandfather” provision allowing continued possession of assault weapons and LCMs owned before the Act’s passage did not satisfy strict scrutiny. C510-12. And plaintiffs similarly argued that the exemptions for certain professionals did not satisfy strict scrutiny either, citing *Accuracy Firearms*. *See* C508,



C511-12. Thus, plaintiffs argued, *Accuracy Firearms* compelled judgment in their favor on the equal protection and special legislation claims, which are evaluated under the same standards. C508-09, C513-14.

Defendants agreed that the equal protection and special legislation claims presented only legal issues and that there were no factual disputes. *See* C488. In response to plaintiffs' summary judgment motion, defendants first noted that plaintiffs were not similarly situated to those in the exempted professions, a requirement for an equal protection claim that the appellate court in *Accuracy Firearms* ignored. C814-17. Defendants then argued that neither the Second Amendment nor the Illinois Constitution's right to bear arms was fundamental for purposes of an equal protection claim. C818-25. Defendants cited extensive federal case law holding that equal protection claims based on an alleged infringement of Second Amendment rights were not even cognizable, much less subject to strict scrutiny. C819-21. And because the federal and state equal protection clauses are interpreted in lockstep, defendants explained, the same is true in the state context. C821. And, defendants added, the state right to bear arms is distinct from, and more limited than, the Second Amendment right in both its text and drafting history, providing an additional reason that right is not fundamental for purposes of an equal protection claim — as this Court held in *Kalodimos*. C822-24.

Thus, although defendants acknowledged *Accuracy Firearms*, they explained that it was wrongly decided. C824-25. And, defendants argued, the exemptions easily survive rational basis review. C826-29.

The circuit court issued a final judgment on March 3, 2023. A1-2. It agreed with defendants that plaintiffs' single subject, three readings, and due process claims, and the separate claim for an injunction, failed as a matter of law, and thus granted defendants summary judgment on these counts. A1. But the circuit court granted summary judgment to plaintiffs on the equal protection and special legislation claims. A1-2. Specifically, it determined that it was bound by the rulings in *Accuracy Firearms* that the Illinois Constitution's right to bear arms was fundamental for equal protection purposes, that strict scrutiny applied as a result, and that the seven enumerated exemptions did not meet that standard. A1-2. And, the circuit court concluded, plaintiffs were entitled to summary judgment on their special legislation claim for the same reasons. A2.

Defendants appealed to this Court. A3-7.

## ARGUMENT

The Act takes restrained, measured steps to alleviate the significant threat to the public health, safety, and welfare associated with assault weapons and LCMs, and, in particular, their use in mass shootings. On the one hand, the General Assembly sought to stem the proliferation of assault weapons and LCMs by preventing new ones from entering circulation and requiring endorsement affidavits to ensure that existing assault weapons do not fall into the wrong hands. On the other, the legislature respected the reliance interests of those who had acquired assault weapons and LCMs before the Act was passed. The legislature also recognized that some trained professionals do not pose the same risks as the average person when handling assault weapons and LCMs, and that these weapons and magazines should be less restricted in certain contexts, such as in military service. The Act thus reflects a careful balancing of interests.

The circuit court's ruling that this balance violates equal protection and constitutes special legislation was flawed. The circuit court relied entirely on the appellate court's 2-1 decision in *Accuracy Firearms v. Pritzker*, 2023 IL App (5th) 230035, which concluded that a nearly identical equal protection challenge would likely succeed if it proceeded to the merits, but that preliminary decision was riddled with legal errors. First, the *Accuracy Firearms* majority departed from this Court's binding equal protection precedent by not assessing whether the plaintiffs were similarly situated to

individuals in the seven enumerated exempted professions (and they, like plaintiffs here, were not). And although plaintiffs in this case added an argument that the Act’s “grandfather” provision violates equal protection, they also asserted that they are within that exemption; thus, they cannot claim that it disadvantages them.

Second, and even more crucially, the *Accuracy Firearms* majority incorrectly ruled that the Second Amendment and the Illinois Constitution’s guarantee of the right to bear arms are “fundamental” rights for purposes of an equal protection claim, and thus subject the Act to strict scrutiny. *Id.* at ¶ 57. But this Court held the opposite in *Kalodimos v. Village of Morton Grove*, 103 Ill. 2d 483 (1984). In that case, the Court held that neither the federal nor state right to bear arms is fundamental and rejected an equal protection challenge to a municipality’s firearms regulation upon applying rational basis review. *See id.* at 509-11.

The *Accuracy Firearms* majority disregarded *Kalodimos* by concluding not only that it was wrongly decided, but also that this Court had silently “abandoned” it. 2023 IL App (5th) 230035, ¶ 56. That conclusion rested on a misreading of several of this Court’s cases — none of which concerned equal protection. It also contravened the Court’s jurisprudence on fundamental rights, as well as the many federal cases making clear that the right to bear arms secured by the Second Amendment is not fundamental for equal protection purposes. Thus, an equal protection challenge to a state firearms

regulation like the Act is subject to rational basis review, which the Act's exemptions readily satisfy.

Finally, as the circuit court rightly recognized, special legislation and equal protection claims are reviewed under the same standard, and so the Act and its exemptions comply with the special legislation clause for the same reasons they comply with the equal protection clause.

**I. This Court reviews *de novo* the circuit court's summary judgment decision.**

The Court reviews the grant of summary judgment *de novo*, without deference to the circuit court's decision. *See Bartlow v. Costigan*, 2014 IL 115152, ¶ 17. Where, as here, the parties agree there are no factual disputes, the case thus presents only questions of law. *See Mancini L. Grp., P.C. v. Schaumburg Police Dep't*, 2021 IL 126675, ¶ 15. A circuit court shall grant summary judgment when there is "no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." 735 ILCS 5/2-1005(c) (2020); *see Mancini*, 2021 IL 126675, ¶ 14.

Similarly, the Court's "review of the constitutionality of the Act, and its proper statutory construction," is also "subject to *de novo* review." *Bartlow*, 2014 IL 115152, ¶ 17. The Court "presume[s]" the Act, including its exemptions, "to be constitutional," and plaintiffs, as the parties challenging the Act, "bear[ ] the burden of demonstrating its invalidity." *Hayashi v. Ill. Dep't of Fin. & Pro. Regul.*, 2014 IL 116023, ¶ 22. Indeed, the Court "will construe a statute to affirm its constitutionality if reasonably possible and will

resolve any doubt on the construction of a statute in favor of its validity.” *In re Destiny P.*, 2017 IL 120796, ¶ 13.

## **II. The Act’s exemptions do not violate equal protection.**

The equal protection clause of the Illinois Constitution “guarantees that similarly situated individuals will be treated in a similar fashion unless the government can demonstrate an appropriate reason to treat them differently.” *Destiny P.*, 2017 IL 120796, ¶ 14; *see* Ill. Const. art. I, § 2. That clause “does not forbid the legislature from drawing proper distinctions between different categories of people, but it does prohibit the government from doing so on the basis of criteria wholly unrelated to the legislation’s purpose.” *Destiny P.*, 2017 IL 120796, ¶ 14.

When evaluating an equal protection claim, the Court asks as a threshold matter “whether the individual is similarly situated to the comparison group.” *Id.* at ¶ 15; *accord Masterson*, 2011 IL 110072, ¶ 25 (“As a threshold matter, . . . [i]t is axiomatic that an equal protection claim requires a showing that the individual raising it is similarly situated to the comparison group.”); *Jenkins v. Wu*, 102 Ill. 2d 468, 477 (1984) (similar). “In fact, when a party fails to make that showing, his equal protection challenge fails.” *Masterson*, 2011 IL 110072, ¶ 25.

Thus, only if plaintiffs establish that they are similarly situated to the comparison group does the Court move to the second step, which is applying the applicable level of scrutiny. *See id.* Moreover, even if the law does treat

similarly situated people differently, in “the vast majority of cases” courts apply rational basis review, which asks only “whether the particular legislative classification is rationally designed to further a legitimate State purpose.”

*People ex rel. Tucker v. Kotsos*, 68 Ill. 2d 88, 97 (1977); *accord Masterson*, 2011 IL 110072, ¶ 24. The Court will go beyond this “deferential analysis,” and apply heightened scrutiny, only to “protect fundamental constitutional rights” or if the challenged classification is based on a suspect class such as race. *Tucker*, 68 Ill. 2d at 97; *accord Masterson*, 2011 IL 110072, ¶ 24.

Finally, because the federal and Illinois equal protection clauses contain materially indistinguishable language, the Illinois provision is interpreted in lockstep with the federal provision. *See Destiny P.*, 2017 IL 120796, ¶ 14; *People v. Mosley*, 2015 IL 115872, ¶ 40; *Hope Clinic for Women, Ltd. v. Flores*, 2013 IL 112673, ¶¶ 92-94; *Nevitt v. Langfelder*, 157 Ill. 2d 116, 124 (1993).

**A. Plaintiffs are not similarly situated to individuals in the exempted professions.**

Plaintiffs are not similarly situated to those in the seven enumerated professions that the Act allows to possess and purchase assault weapons and LCMs. Four of these seven exemptions encompass law enforcement agencies and personnel (law enforcement agencies, peace officers, corrections officials, and current and retired law enforcement officers qualified under the federal Law Enforcement Officers Safety Act, as implemented by Illinois law). 720 ILCS 5/24-1.9(e)(1)-(4) & 5/24-1.10(e)(1)-(4). The other three apply to members of the military, licensed private security guards, and guards at

nuclear facilities, but only when they are engaged in official duties. 720 ILCS 5/24-1.9(e)(5)-(7) & 5/24-1.10(e)(5)-(7). Individuals in all of these professions are required to undergo specific firearms training, *see* 20 Ill. Admin. Code §§ 1730.20 (peace officers), 1750.202(c)(1) (corrections officials), 1720.220-40 (qualified retired law enforcement pursuant to 18 U.S.C. § 926C); 68 Ill. Admin. Code § 1240.510 (private security guards), or, in the case of the military or guards at nuclear facilities, work in areas that are heavily regulated by the federal government. And some of the exemptions apply only to the extent that these professionals are actively engaged in the defense of country, of critical infrastructure, and of commercial property. 720 ILCS 5/24-1.9(e)(5)-(7) & 5/24-1.10(e)(5)-(7). Members of the general public like plaintiffs are not similarly situated to those in these professions.

For this reason, courts that have evaluated similar challenges under the federal equal protection clause have recognized that law enforcement officers and those in similar professions “are not similarly situated to the general public with respect to [possessing assault weapons and LCMs].” *Kolbe v. Hogan*, 849 F.3d 114, 147 (4th Cir. 2017) (en banc), *abrogated on other grounds by N.Y. State Rifle & Pistol Ass’n v. Bruen*, 142 S. Ct. 2111 (2022); *see also Shew v. Malloy*, 994 F. Supp. 2d 234, 252-53 (D. Conn. 2014), *rev’d in part on other grounds sub nom. N.Y. State Rifle & Pistol Ass’n, Inc. v. Cuomo* (“NYSRPA”), 804 F.3d 242 (2d Cir. 2015) (“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.”).

Here, plaintiffs did not show that they either (1) have received extensive firearms training similar to that undertaken by law enforcement, or (2) are required to possess assault weapons to perform official duties. *See Destiny P.*, 2017 IL 120796, ¶ 21 (to be similarly situated, “classes must be ‘in all relevant respects alike’”) (citation omitted). Plaintiffs argued below that they possess FOID cards, *see* C507, but that alone does not confer the firearms expertise that these professionals hold. Indeed, no firearms training is required to obtain a FOID card. *See* 430 ILCS 65/4, 65/8 (2020).

Plaintiffs also hypothesized that some individuals might have similar training and experience to those in the enumerated professions that would make them similarly situated, such as “outdoorsmen” who have “decades” of experience using assault weapons for “protecting stock on a farm.” C241. But plaintiffs did not show that they have such experience. Parties seeking to invalidate a statute as unconstitutional must assert their own rights, not the rights of hypothetical plaintiffs. *See, e.g., State v. Funches*, 212 Ill. 2d 334, 346 (2004) (“A party has standing to challenge the constitutionality of a statute only insofar as it adversely impacts his or her own rights.”); *People v. Jaudon*, 307 Ill. App. 3d 427, 435-36 (1st Dist. 1999) (“A party does not have standing to assert the constitutional rights of others not before the court.”). The *Accuracy Firearms* dissent observed that the majority was incorrect on this

point for this very reason. *See* 2023 IL App (5th) 230035, ¶ 77 (“The plaintiffs’ complaint and arguments point to a hypothetical Navy SEAL, but failed to allege this scenario was applicable to the plaintiffs.”).

The circuit court in this case did not discuss the similarly situated requirement, reasoning that it was obligated to follow *Accuracy Firearms*. But *Accuracy Firearms* bypassed this requirement entirely, and instead erroneously suggested the Act was required to expressly state, in its text, why those who fell into the exemptions were not similarly situated to those in the general public. *Id.* at ¶ 61. This flipped the burden on its head. It is plaintiffs who must “make that showing,” *Masterson*, 2011 IL 110072, ¶ 25, as the dissent recognized, *Accuracy Firearms*, 2023 IL App (5th) 230035, ¶ 77.

Plaintiffs’ equal protection challenge thus should have failed at the outset because they were not similarly situated to those in the enumerated exemptions. To the extent that *Accuracy Firearms* concluded otherwise in the TRO posture, this Court should overrule it.

**B. Plaintiffs admitted that they already possess assault weapons, and thus they were not treated differently than those covered by the “grandfather” provision.**

After the litigation in this case began, plaintiffs added a new theory, not raised in *Accuracy Firearms*, that the Act’s “grandfather” provision also violated the equal protection clause. This theory also fails at the threshold.

Namely, plaintiffs’ own admissions in their verified complaint established that they were not treated differently from those covered by the

“grandfather” provision. The two individually named plaintiffs, and those in the association, averred that they “possess” assault weapons and LCMs. C11; *see* 735 ILCS 5/2-605(a) (2020) (allegations in a verified complaint are admissions). They thus may continue to possess the assault weapons and LCMs that they acquired before the Act was passed, so long as they provide an endorsement affidavit for any assault weapons by January 1, 2024 — and they therefore are within the very exemption that they challenge. Although they may no longer “deliver, sell, import, or purchase” assault weapons and LCMs, which they “desire” to do, C11, the restrictions on sales and purchases apply equally to everyone covered by the grandfather provision. *See* 720 ILCS 5/24-1.9(d) & 1.10(d). The named business plaintiff similarly admitted that it currently possesses assault weapons and sought relief to allow it to *transfer* those firearms. C11. But again, although those covered by the grandfather provision may possess already owned weapons, they face the same restrictions on transfer that plaintiffs do. *See* 720 ILCS 5/24-1.9(b), (d), (e) & 1.10(b), (d), (f).

By their own admissions, then, plaintiffs were not treated differently than those who possessed assault weapons and LCMs before the Act’s passage. Their equal protection attack on the “grandfather” provision thus should have failed at the outset. And to the extent that they sought to assert a claim on behalf of those who do not already possess assault weapons or LCMs, they may

not do so. Again, parties that seek to invalidate a statute must assert their own rights, not the rights of others. *See supra* pp. 23-24.

But even if plaintiffs could raise an equal protection challenge to the “grandfather” provision notwithstanding their admissions, that challenge would fail because individuals who already possessed assault weapons and LCMs before the Act’s passage are not similarly situated to those who did not. Those covered by the grandfather provision purchased their assault weapons and LCMs in reliance on the law as it previously stood. In other words, they purchased or acquired assault weapons and LCMs based on the premise that they were legal. But anyone who would now seek to acquire assault weapons or LCMs is on notice that acquiring and possessing them is prohibited by Illinois law. Those who owned assault weapons or LCMs before the Act was passed thus are not similarly situated to those who did not. Consequently, even if this Court were to consider plaintiffs’ equal protection challenge to the grandfather provision, it should reject it.

**C. Neither the federal nor state Constitution’s guarantee of the right to bear arms triggers strict scrutiny for an equal protection claim.**

In an equal protection claim, the Court reviews a statutory classification for a rational basis unless it is based on a protected characteristic or burdens a fundamental right. *Masterson*, 2011 IL 110072, ¶ 24. As this Court has long recognized, “[n]ot every right secured by the State or Federal constitutions is fundamental.” *Kalodimos*, 103 Ill. 2d at 509. Instead, fundamental rights

encompass “only those which ‘lie at the heart of the relationship between the individual and a republican form of nationally integrated government.’” *Id.* (quoting *Tucker*, 68 Ill. 2d at 97); *Napleton v. Vill. of Hinsdale*, 374 Ill. App. 3d 1098, 1102 (2d Dist. 2007); *see also Jenkins v. Leininger*, 277 Ill. App. 3d 313, 322 (1st Dist. 1995) (“The term ‘fundamental right’ is a term of art and creature of constitutional construction subject to a body of precedent that limits judicial review under the standard of strict scrutiny.”) Fundamental rights thus include “the expression of ideas (*i.e.*, speech), participation in the political process, interstate travel, and intimate personal privacy interests.” *Napleton*, 374 Ill. App. 3d at 1102 (citing *Tucker*, 68 Ill. 2d at 97). Although “almost every state statute affects an important right, courts must refrain from characterizing all important rights as fundamental” for equal protection purposes “such that in the process they become ‘super-legislatures.’” *Jenkins*, 277 Ill. App. 3d at 323.

*Kalodimos* applied these principles to the federal and state rights to bear arms. There, this Court considered an equal protection challenge to an ordinance prohibiting the possession of handguns, which involved similar exemptions to those in the Act. *Kalodimos*, 103 Ill. 2d at 490, 508 (ordinance exempted “peace officers, prison officials, members of the armed forces, [and] security guards duly employed by a commercial or industrial enterprise”). The Court explained that although the right to bear arms “may be necessary to protect important personal liberties from encroachment by other individuals,

it does not lie at the heart of the relationship between individuals and their government.” *Id.* at 509. Thus, the Court concluded, the federal and state rights to bear arms are not fundamental, and rational basis review applied to the equal protection challenge to the municipality’s firearms regulation. *Id.*

*Kalodimos* thus is directly applicable here. Moreover, subsequent case law, and state constitutional text and history, reinforce its holding and foreclose plaintiffs’ contentions that either the Second Amendment or the Illinois Constitution’s right to bear to arms is fundamental in an equal protection challenge.

**1. The Second Amendment is not fundamental for equal protection purposes.**

Although since *Kalodimos*, this Court has had no occasion to reconsider whether the right to bear arms under the Illinois Constitution is fundamental for purposes of an equal protection claim, federal courts have repeatedly held that the Second Amendment is not. *See Culp v. Raoul*, 921 F.3d 646, 658 (7th Cir. 2019) (equal protection claim based on allegedly disparate burdens on right to bear arms was not cognizable, but “even if we were to consider this claim independent of the plaintiffs’ Second Amendment claim,” law did not burden a fundamental right); *Nordyke v. King*, 681 F.3d 1041, 1043 n.2 (9th Cir. 2012) (rational basis would apply to equal protection challenge to law that allegedly burdened Second Amendment right to bear arms); *Sibley v. Watches*, 460 F. Supp. 3d 302, 318 (W.D.N.Y. 2020) (“courts have generally concluded that the Second Amendment analysis is sufficient to protect these rights and

have either declined to conduct a separate equal protection analysis or have subjected the equal protection challenge to rational basis review”) (cleaned up). These federal decisions are relevant, because, as explained, the equal protection clause of the Illinois Constitution is interpreted in lockstep with its federal counterpart. *See Destiny P.*, 2017 IL 120796, ¶ 14; *Mosley*, 2015 IL 115872, ¶ 40; *Hope Clinic*, 2013 IL 112673, ¶¶ 92-94; *Nevitt*, 157 Ill. 2d at 124.

These federal decisions are also consistent with the United States Supreme Court’s general principle that rights explicitly protected in the federal Constitution as enumerated rights are distinct from “fundamental” rights, which are not explicit in text and are instead protected by less specific provisions, such as the equal protection clause. When “a particular Amendment provides an explicit textual source of constitutional protection,” that Amendment, and not more “generalized” protections, must be the basis for a cause of action. *Albright v. Oliver*, 510 U.S. 266, 273 (1994) (cleaned up); *see United States v. Lanier*, 520 U.S. 259, 272 n.7 (1997) (similar). And this makes good sense. Indeed, if a statute violates an enumerated right expressly protected by the Constitution — even if only for one group of people — those who are burdened may simply bring a cause of action based on that enumerated right.

Thus, the Seventh Circuit rejected an attempt to “usurp” the Second Amendment analysis by “repackaging” a Second Amendment claim as one for equal protection. *Culp*, 921 F.3d at 658. The Second Circuit similarly noted

that “*every* Circuit to have addressed this issue” has decided that “plaintiffs should not be allowed to use the Equal Protection Clause ‘to obtain review under a more stringent standard’ than the standard applicable to their Second Amendment claim.” *Kwong v. Bloomberg*, 723 F.3d 160, 170 n.19 (2d Cir. 2013) (quoting *Woollard v. Gallagher*, 712 F.3d 865, 873 n.4 (4th Cir. 2013)) (emphasis in original); *see also United States v. Carey*, 602 F.3d 738, 741 & n.2 (6th Cir. 2010) (claim that “conflate[d]” Second Amendment and equal protection claims should be analyzed as Second Amendment claim); *United States v. Carbajal-Flores*, No. 20-CR-00613, 2022 WL 1104226, at \*2 (N.D. Ill. Apr. 13, 2022) (same); *Sibley*, 460 F. Supp. 3d at 318 (“courts have generally concluded that the Second Amendment analysis is sufficient to protect these rights and have either declined to conduct a separate equal protection analysis or have subjected the equal protection challenge to rational basis review”) (cleaned up). As the Ninth Circuit put it, such claims are merely “Second Amendment claim[s] dressed in equal protection clothing,” and are thus “not cognizable” as equal protection claims. *Teixeira v. Cnty. of Alameda*, 822 F.3d 1047, 1052 (9th Cir. 2016), *aff’d in relevant part en banc*, 873 F.3d 670, 676 n.7 (9th Cir. 2017) (cleaned up).<sup>9</sup>

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<sup>9</sup> As noted above, plaintiffs did not add their theory that the equal protection claim rested on alleged interference with the right to bear arms under the Second Amendment until they moved for summary judgment, *see* C507; their complaint alleged that the fundamental right at issue was the Illinois Constitution’s guarantee of the right to bear arms, C33. By declining to include a Second Amendment claim in their complaint, and only later seeking to recast their equal protection claim as one based on the Second Amendment,



This Court's precedents buttress this principle. Defendants are aware of only four cases where this Court has considered whether an equal protection challenge warrants strict scrutiny because of an alleged infringement of an enumerated constitutional right. *See Mosley*, 2015 IL 115872, ¶ 41 (Second Amendment); *People v. Bailey*, 167 Ill. 2d 210, 226, 231 (1995) (First Amendment); *Chi. Trib. Co. v. Vill. of Downers Grove*, 125 Ill. 2d 468, 472 (1988) (First Amendment); *People v. Tosch*, 114 Ill. 2d 474, 480 (1986) (First Amendment). And in each of those cases, the Court first asked whether the enumerated right itself was violated. *See Mosley*, 2015 IL 115872, ¶ 41 (challenged provisions did not violate the Second Amendment); *Bailey*, 167 Ill. 2d at 226, 232; *Chi. Trib. Co.*, 125 Ill. 2d at 474; *Tosch*, 114 Ill. 2d at 480. But plaintiffs have made no effort to show that the Act violates the Second Amendment. That question is not presented here, C513 (disclaiming Second Amendment challenge to the Act), and is being litigated elsewhere, *see Bevis v. City of Naperville*, No. 22 C 4775, 2023 WL 2077392, at \*16 (N.D. Ill. Feb. 17, 2023) (denying preliminary injunction because plaintiffs were not likely to

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plaintiffs prevented defendants from removing this case to federal court, where they already are defending the Act against Second Amendment challenges. *Infra* pp. 31-32. The Court should reject any effort by plaintiffs to belatedly add a federal claim. *See Kostecki v. Dominick's Finer Foods, Inc. of Ill.*, 361 Ill. App. 3d 362, 373-74 (1st Dist. 2005) (plaintiff's belated attempt to add federal claim, after structuring complaint to avoid removal, was improper and prejudicial to defendants).

succeed on claim that Act's restrictions on assault weapons and LCMs violate Second Amendment).<sup>10</sup>

In short, federal courts have consistently prohibited “repackaging” a Second Amendment claim as an equal protection claim, *Culp*, 921 F.3d at 658, this Court's decisions support that approach, and yet that is precisely what plaintiffs seek to do here. And because Illinois's equal protection clause is interpreted in lockstep with the analogous federal clause, *see supra* p. 29, this Court should reaffirm its holding in *Kalodimos* that the Second Amendment's right to bear arms is not fundamental for purposes of Illinois equal protection law.

## **2. The Illinois Constitution's right to bear arms is not fundamental for equal protection purposes.**

There is even less reason for the Court to hold that the right to bear arms under the Illinois Constitution is fundamental for equal protection purposes. Unlike the state and federal equal protection clauses, the right to bear arms in the Illinois and United States Constitutions contain materially

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<sup>10</sup> Many other courts, both before and after the United States Supreme Court's decision in *Bruen*, 142 S. Ct. 2111, have similarly held that bans on assault weapons and LCMs do not violate the Second Amendment. *See Ocean State Tactical, LLC v. Rhode Island*, No. 22-CV-246 JJM-PAS, 2022 WL 17721175, at \*11-16 (D.R.I. Dec. 14, 2022); *Oregon Firearms Fed'n, Inc. v. Brown*, No. 2:22-CV-01815-IM, 2022 WL 17454829, at \*8-14 (D. Or. Dec. 6, 2022); *Worman v. Healey*, 922 F.3d 26, 41 (1st Cir. 2019), *abrogated on other grounds by Bruen*, 142 S. Ct. 2111; *NYSRPA*, 804 F.3d at 269; *Kolbe*, 849 F.3d at 136-37; *Ass'n of N.J. Rifle & Pistol Clubs, Inc. v. Att'y Gen. N.J.*, 910 F.3d 106, 122 (3d Cir. 2018), *abrogated on other grounds by Bruen*, 142 S. Ct. 2111; *Heller v. District of Columbia*, 670 F.3d 1244, 1264 (D.C. Cir. 2011); *Friedman v. City of Highland Park*, 784 F.3d 406, 412 (7th Cir. 2015).

distinguishable language. The state firearms right, unlike the federal right, is expressly cabined by the caveat that it is “[s]ubject only to the police power.”

Ill. Const. art. I, § 22; *see also Kalodimos*, 103 Ill. 2d at 509 (state right to bear arms is, unlike federal right, by its plain text “subject . . . to substantial infringement in the exercise of the police power even though it operates at the individual level”); *see also id.* at 491 (Illinois Constitution’s right to bear arms “does not mirror” Second Amendment right, because, among other things, Illinois right adds the words “[s]ubject only to the police power”).

Where state and federal constitutional provisions contain meaningfully different language, they are not interpreted in lockstep. Instead, this Court gives meaning to their plain text. *See Hampton v. Metro. Water Reclamation Dist. of Greater Chi.*, 2016 IL 119861, ¶¶ 11-12, 27 (state takings clause provides different protection than federal one because state clause covers “damage[ ]” to property, unlike federal clause); *People ex rel. Daley v. Joyce*, 126 Ill. 2d 209, 213-15 (1988) (state right to jury trial in criminal cases differs from federal right because “there is a difference in the language of our State constitution from that of the Federal Constitution, and the difference is one of substance and not merely one of form”). And if “after consulting the language of the constitutional provision[, ] its meaning is in doubt,” the Court then “consult[s] the drafting history of the provision, including the debates of the delegates to the constitutional convention.” *Walker v. McGuire*, 2015 IL 117138, ¶ 16.

In *Kalodimos*, the Court undertook this analysis and held that “the explicit recognition of ‘the police power’ as a limitation on [the Illinois right to bear arms]” reflected the “common understanding” of voters that the state firearms right would allow state and local governments, when exercising their police powers, to completely ban categories of firearms. 103 Ill. 2d at 491-92. This “common meaning of the words used,” the Court explained, was confirmed by the drafting history of the Illinois right to bear arms, which showed that the delegates to the 1970 Constitutional Convention understood the provision to authorize governments to completely ban categories of firearms. *Id.* at 493-96. Thus, the Court concluded: “Based on the floor debates and the official explanation, as well as on the language of the provision, it is apparent to us that section 22, as submitted to the voters, meant that a ban on all firearms that an individual citizen might use would not be permissible, but a ban on discrete categories of firearms, such as handguns, would be.” *Id.* at 498; *cf. District of Columbia v. Heller*, 554 U.S. 570 (2008) (District of Columbia ordinance banning handguns violates Second Amendment).

The text and history of the Illinois right to bear arms thus establish that the state firearms right is more limited than the federal right. This even more clearly indicates that the state right to bear arms — like the right in the Second Amendment — is not fundamental for purposes of equal protection.

**3. *Accuracy Firearms* does not compel a different conclusion because its decision that this Court “abandoned” *Kalodimos* was incorrect.**

The circuit court rejected this clear precedent because it was obligated to follow the appellate court’s opinion in the TRO appeal in *Accuracy Firearms*. *Accuracy Firearms* recognized that *Kalodimos* foreclosed the plaintiffs’ argument that the right to bear arms under the Illinois Constitution is fundamental for purposes of equal protection, and therefore precluded their argument that strict scrutiny, rather than rational basis review, applied to that claim. *Accuracy Firearms*, 2023 IL App (5th) 230035, ¶ 51. That should have ended the analysis because the challenged exemptions easily survive rational basis review. *See infra* pp. 38-46. But *Accuracy Firearms* declined to follow *Kalodimos*, based on the majority’s view that it was wrongly decided, 2023 IL App (5th) 230035, ¶ 54, or silently “abandoned” in this Court’s later decisions, *id.* ¶¶ 52, 56. But, as the dissenting justice noted, the appellate court “did not have the authority” to make such a pronouncement, *id.* at ¶ 83, because only this Court “can overrule or modify its precedent.” *Id.* at ¶ 79 (citing *Yakich v. Aulds*, 2019 IL 123667, ¶ 13). In any event, *Kalodimos* was correctly decided, as explained, *supra* pp. 26-28, 34.

The appellate court majority’s holding otherwise was based on its misunderstanding of four cases: *People v. Aguilar*, 2013 IL 112116; *People v. Burns*, 2015 IL 117387; *People v. Chairez*, 2018 IL 121417; and *Guns Save Life, Inc. v. Ali*, 2021 IL 126014. *See Accuracy Firearms*, 2023 IL App (5th)

230035, ¶ 56. But each is distinguishable because none involved an equal protection claim. *Aguilar*, *Burns*, and *Chairez* merely held that broad firearms regulations — far more sweeping than the Act’s restrictions of a small class of weapons here — violated the Second Amendment. *See Aguilar*, 2013 IL 112116, ¶¶ 15, 22 (statute criminalizing carrying of any loaded firearm in public); *Burns*, 2015 IL 117387, ¶¶ 9, 32 (same); *Chairez*, 2018 IL 121417, ¶¶ 13, 56 (statute prohibiting carrying any firearm within 1,000 feet of public park). None of these decisions shed light on the level of scrutiny to apply to an equal protection claim.

As for *Ali*, it addressed a claim that a local ordinance imposing a tax on all firearms and ammunition violated the Illinois Constitution’s uniformity clause. 2021 IL 126014, ¶¶ 3-5, 18. Plaintiffs have not raised a uniformity clause violation (nor could they because the Act does not impose a tax or fee, which that clause requires, *see* Ill. Const. art. IX, § 2). And although *Ali* discussed the concept of “fundamental rights” in the context of a uniformity clause claim, it also explained that the uniformity clause is a “broader limitation on legislative power” than the equal protection clause. 2021 IL 126014, ¶¶ 35-36 (cleaned up); *see Marks v. Vanderventer*, 2015 IL 116226, ¶ 29. (“The uniformity clause imposes more stringent limitations than the equal protection clause[.]”). While the state equal protection clause is interpreted the same as the federal one, *supra* p. 21, the uniformity clause was specifically intended to give taxpayers “more rigorous” protection than those clauses, *see*

*Arangold Corp. v. Zehnder*, 204 Ill. 2d 142, 153 (2003); *see also Okla. Educ. Ass’n v. Alcoholic Beverage Laws Enforcement Comm’n*, 889 F.2d 929, 932-33 (10th Cir. 1989) (right recognized as fundamental for constitutional protection that “promote[s] interstate harmony and the national economic union” was not fundamental for equal protection purposes). So, a right that is “fundamental” under the more protective uniformity clause is not necessarily “fundamental” under the equal protection clause. And as the dissent noted, “[a]t no point [in *Ali*] did the court state that *Kalodimos* was no longer good law.” *Accuracy Firearms*, 2023 IL App (5th) 230035, ¶ 78.

Moreover, contrary to the *Accuracy Firearms* majority’s suggestion, *id.* at ¶¶ 52-53, the United States Supreme Court’s decision in *McDonald v. City of Chicago*, 561 U.S. 742 (2010), on which *Ali* relied, *see* 2021 IL 126014, ¶ 28, does not hold that the Second Amendment triggers strict scrutiny for an equal protection claim. *McDonald* merely determined that the Second Amendment’s individual right to keep and bear arms for self-defense, which was first recognized in *Heller*, 554 U.S. at 636, was “fully applicable to the States,” *McDonald*, 561 U.S. at 750. Although the test for incorporating a federal right to apply to the States asks whether the right is “fundamental to our scheme of ordered liberty,” *id.* at 767, this is not equivalent to a “fundamental” right in the equal protection context, *see Culp*, 921 F.3d at 658; *supra* pp. 28-30. Unsurprisingly, then, even after *McDonald*, federal courts, including the Seventh Circuit in *Culp*, have unanimously held that rational basis applies to

an equal protection challenge to a law that purportedly burdens the Second Amendment right to bear arms, or that such claims are not cognizable at all. *See supra* pp. 28-30.

For this same reason, *Accuracy Firearms* was also incorrect that the state right to bear arms must be fundamental to avoid “run[ning] afoul” of the supremacy clause in the federal Constitution. 2023 IL App (5th) 230035, ¶ 54. The claims at issue here, and in *Accuracy Firearms*, are equal protection claims, not claims under the Second Amendment or Article I, Section 22. Federal and state equal protection claims, as noted, are interpreted the same way, and federal courts have held that the Second Amendment does not trigger strict scrutiny for an equal protection claim. *Kalodimos*’s similar holding thus presents no conflict.

In sum, this Court should overrule *Accuracy Firearms*, which purported to reverse this Court’s binding precedent and misapplied cases that have no relevance here. As the Court in *Kalodimos* held, a challenge to a firearms regulation does not implicate a fundamental right for purposes of equal protection, and therefore is subject to rational basis review. And, as explained below, the Act’s exemptions are rationally related to the State’s legitimate interests.

**D. The Act’s exemptions satisfy rational basis review.**

Rational basis review is “limited and deferential,” and legislation will be upheld if it is rationally related to a legitimate state interest. *Destiny P.*, 2017



IL 120796, ¶ 14; *accord Tosch*, 114 Ill. 2d at 481 (consistent with equal protection, government may “differentiate between persons similarly situated if there is a rational basis for doing so”). “[A]ny set of facts” that one can “reasonably conceive” will suffice “to justify the statutory classification,” *Arvia v. Madigan*, 209 Ill. 2d 520, 537 (2004), even if “unarticulated” at the time the legislation was enacted, *Segers v. Indus. Comm’n*, 191 Ill. 2d 421, 436 (2000) (citation omitted).

Thus, a “court may hypothesize reasons for the” classification, “even if the reasoning advanced did not motivate the legislative action.” *People ex rel. Lumpkin v. Cassidy*, 184 Ill. 2d 117, 124 (1998); *accord Jones v. City of Calumet City*, 2017 IL App (1st) 170236, ¶ 29. The government need not “produce evidence to sustain the rationality of the classification”; instead, “there is a weighty burden on the challenger, who must negative every basis which might support the law because it should be upheld if there is any reasonably conceivable set of facts supporting the classification.” *AFSCME, Council 31 v. State*, 2015 IL App (1st) 133454, ¶ 32; *accord Ill. Hous. Dev. Auth. v. Van Meter*, 82 Ill. 2d 116, 122 (1980) (party challenging statute has burden of showing its invalidity). And “[r]ational-basis review tolerates overinclusive classifications, underinclusive ones, and other imperfect means-ends fits.” *St. Joan Antida High Sch. Inc. v. Milwaukee Pub. Sch. Dist.*, 919 F.3d 1003, 1010 (7th Cir. 2019); *see also Lumpkin*, 184 Ill. 2d at 124 (“The statute need not be the best means of accomplishing the legislature’s

objectives.”); *People v. Anderson*, 148 Ill. 2d 15, 31 (1992) (“The legislature need not deal with all conceivable evils at once; it may proceed one step at a time.”).

The exemptions here easily satisfy rational basis review. To begin, reducing mass shootings and firearm casualties, which are more likely to result from the use of assault weapons and LCMs than from other types of firearms and magazines, is a legitimate government interest. *See Kalodimos*, 103 Ill. 2d at 510; *see also Mosley*, 2015 IL 115872, ¶ 42 (“[T]he state has a legitimate interest in protecting the public and the police from the possession and use of dangerous weapons.”). And 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 — is a reasonable way to achieve that goal.

Indeed, courts have recognized that assault weapons “are disproportionately used in crime, and particularly in criminal mass shootings,” and “disproportionately used to kill law enforcement officers.” *NYSRPA*, 804 F.3d at 262; *accord Worman*, 922 F.3d at 39 (assault weapons equipped with LCMs “have been the weapons of choice in many of the deadliest mass shootings in recent history”); *Bevis*, 2023 WL 2077392, at \*15 (“[A]ssault weapons are used disproportionately in mass shootings, police killings, and gang activity.”); *see also Robertson v. City & Cnty. of Denver*, 874 P.2d 325, 332 (Colo. 1994) (describing evidence showing that assault weapons are more likely

to be used in criminal activity). Similarly, “[l]arge-capacity magazines are disproportionately used in mass shootings.” *NYSRPA*, 804 F.3d at 263.

Courts have also recognized that assault weapons and LCMs “tend to result in more numerous wounds, more serious wounds, and more victims.” *Id.* at 262; *see id.* at 263-64 (LCMs “result in more shots fired, persons wounded, and wounds per victim than do other gun attacks”) (cleaned up). A shooter with an assault weapon equipped with an LCM can “launch thirty rounds in as little as six seconds” and “easily convert[ ] [the weapons] to increase their lethality and mimic military-grade machine guns.” *Bevis*, 2023 WL 2077392, at \*14-15. These weapons cause “extreme damage” to their victims, *Worman*, 922 F.3d at 39, “penetrat[ing] deep into the body,” “caus[ing] catastrophic bleeding,” and creating “large cavit[ies]” in tissue and wounds “the size of an orange,” *Bevis*, 2023 WL 2077392, at \*14 (citations omitted).

In light of these dangers, numerous courts have held that banning assault weapons is a rational means of furthering public safety. *See Benjamin v. Bailey*, 662 A.2d 1226, 1238 (Conn. 1995) (“[T]he state has a legitimate interest in regulating assault weapons. The legislature’s decision to prohibit the possession of some weapons and not others does not render the ban on assault weapons irrational.”); *Coal. of N.J. Sportsmen, Inc. v. Whitman*, 44 F. Supp. 2d 666, 686 (D.N.J. 1999), *aff’d*, 263 F.3d 157 (3d Cir. 2001) (“Clearly . . . the government has a legitimate state interest in the regulation of assault

weapons. . . . The rational link between public safety and a law proscribing possession of assault weapons is so obvious that it would seem to merit little serious discussion.”); *see also Worman*, 922 F.3d at 39-40; *Kolbe*, 849 F.3d at 140; *NYSRPA*, 804 F.3d 242, 262-63 (2d Cir. 2015); *Olympic Arms v. Buckles*, 301 F.3d 384, 389-90 (6th Cir. 2002); *Robertson*, 874 P.2d at 333.

That the Act contains limited and reasonable exemptions does not compel a different outcome. First, the seven enumerated exemptions reasonably differentiate between professionals with extensive firearms training and experience and the public at large. *See supra* p. 22. Indeed, several of the exemptions are expressly limited to these professionals while they are acting within the scope of their official duties. *See supra* p. 22.

This Court has already recognized that it is eminently reasonable to exempt these professions from firearms regulations. In *Kalodimos*, the Court considered a handgun ban that exempted, among others, “peace officers, prison officials, members of the armed forces, reserve units and the Illinois National Guard, [and] security guards duly employed by a commercial or industrial enterprise or a public utility,” 103 Ill. 2d at 490, and concluded that the exemptions were rational, *id.* at 510-11. For example, the Court explained, the local government “could validly have believed that security guards as a group were likely to exercise greater responsibility in using their weapons than citizens generally,” or have placed significant weight on protecting commercial premises and public infrastructure. *Id.* at 511. Other courts have likewise

recognized that similar exemptions are rational. *See, e.g., Whitman*, 44 F. Supp. 2d at 686-87 (exemption to assault weapons and LCM ban for certain government employees was rational).

Second, even if plaintiffs could sustain a challenge to the “grandfather” provision, *but see supra* pp. 24-26, that exemption is also rational. The Seventh Circuit, for example, held that a grandfather provision in a municipal ban on handguns protected “the reliance interests of those who purchased handguns legally before the effective date of the ordinance,” and that this was a legitimate government interest. *Sklar v. Byrne*, 727 F.2d 633, 641-42 (7th Cir. 1984). A number of courts have similarly recognized that grandfather provisions in other assault weapons and LCMs bans are rational because of these same reliance interests. *See Kampfer v. Cuomo*, 643 F. App’x 43, 44 (2d Cir. 2016) (“Grandfather clauses are a long-accepted legislative tool for mitigating the effect of new regulations on persons who have relied on existing law.”); *Peoples Rts. Org., Inc. v. City of Columbus*, 152 F.3d 522, 533 (6th Cir. 1998) (city “could rationally choose to protect these reliance interests through the use of a grandfather provision like the instant one”); *Whitman*, 44 F. Supp. 2d at 689 (“legislative protection, albeit with conditions, of the ownership and/or reliance interests of assault firearm owners” is “a legitimate governmental interest”); *see also Hollis v. Lynch*, 121 F. Supp. 3d 617, 645 (N.D. Tex. 2015), *aff’d*, 827 F.3d 436 (5th Cir. 2016). Illinois courts have also approved of grandfather provisions in other contexts. *See, e.g., People ex rel.*

*Cnty. Collector of Cook Cnty. v. Nw. Univ.*, 51 Ill. 2d 131, 136 (1972) (property taxes); *People v. Hagen*, 191 Ill. App. 3d 265, 269 (4th Dist. 1989) (vehicle standards). And to the extent that plaintiffs challenge the General Assembly’s decision to extend the grandfather provision to individuals who inherit an assault weapon or LCM, C510-11, this too is rational, because it protects the property rights and reliance interests of the original owners by preserving those owners’ abilities to pass down their property through inheritance.

The appellate court in *Accuracy Firearms* did not suggest that the challenged exemptions could not survive rational basis review. And the majority’s criticisms of the exemptions, which were made in the context of analyzing the likelihood of success under strict scrutiny, do not call the Act into question.

First, the majority noted that the Act did not on its face indicate a “purpose or basis for the exempted categories.” *Accuracy Firearms*, 2023 IL App (5th) 230035, ¶ 60; *see also id.* ¶ 61 (deeming it “extremely relevant that no purpose of the legislation and no basis for the classifications was provided at the time plaintiffs’ pleadings were filed”). But on rational basis review, the government interest need not be express in the statute’s text, *Srail v. Vill. of Lisle*, 588 F.3d 940, 946-47 (7th Cir. 2009); *accord Lumpkin*, 184 Ill. 2d at 124; *Dotty’s Cafe v. Ill. Gaming Bd.*, 2019 IL App (1st) 173207, ¶ 34, and the government need not “produce evidence to sustain the rationality of the classification,” *AFSCME*, 2015 IL App (1st) 133454, ¶ 32. On the contrary, a

“court may hypothesize reasons” for the classification. *Lumpkin*, 184 Ill. 2d at 124; *Jones*, 2017 IL App (1st) 170236, ¶ 29.

Second, the majority speculated that the Act is overinclusive because some non-exempt individuals might have specialized employment or training that would “render them more or equally qualified to possess and purchase [assault weapons and LCMs]” than persons in the exempted categories.

*Accuracy Firearms*, 2023 IL App (5th) 230035, ¶ 62. Again, under rational basis review, classifications need not be drawn with mathematical precision. *Lumpkin*, 184 Ill. 2d at 124; *Anderson*, 148 Ill. 2d 15, 31 (1992); *St. Joan Antida High Sch.*, 919 F.3d at 1010. Rather, they need only be rational, as the Act’s are.

Finally, the majority suggested that the Act is underinclusive because it contains the “grandfather” provision, and thus does not require individuals who lawfully owned assault weapons before the Act’s effective date to give up their weapons so long as they obtain an endorsement affidavit by January 1, 2024. *See Accuracy Firearms*, 2023 IL App (5th) 230035, ¶ 62. But as explained, the General Assembly reasonably balanced the reliance interests of existing owners of assault weapons and LCMs against the significant public health, safety, and welfare concerns associated with these weapons and magazines and, in particular, their use in mass shootings, by limiting the number in circulation going forward. “The mere fact that a law could have gone further than it did does not offend rational basis.” *Piccioli v. Bd. of Trs.*

of *Teachers' Ret. Sys.*, 2019 IL 122905, ¶ 23. The legislature was well within its authority to address the dangers presented by assault weapons and LCMs “one step at a time.” *Anderson*, 148 Ill. 2d at 31.

In sum, the Act limits the number of new assault weapons in circulation to protect Illinois residents from the devastation associated with mass shootings, an eminently reasonable policy goal that courts should not second-guess. The General Assembly also rationally adopted a restrained approach that balances this public interest with the reliance interests of firearms owners and recognizes the “extensive training” and “experience in public safety” held by certain professions. *Kolbe*, 849 F.3d at 147. The Act’s exemptions are rationally related to legitimate government interests.

### **III. The Act’s exemptions are not special legislation.**

“[S]pecial legislation and equal protection challenges are judged by the same standard.” *In re Est. of Jolliff*, 199 Ill. 2d 510, 520 (2002); see *Big Sky Excavating, Inc. v. Ill. Bell Tel. Co.*, 217 Ill. 2d 221, 240 (2005). Here, “[p]laintiffs have advanced no separate or additional arguments that would warrant treating their equal protection and special legislation claims differently in this case.” *Big Sky Excavating*, 217 Ill. 2d at 241. Thus, their special legislation claim fails for the same reasons as their equal protection claim. *See id.*



## CONCLUSION

For these reasons, Defendants-Appellants ask this Court to reverse the circuit court's judgment.

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE**

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 10,959 words.

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**FILED****MAR 03 2023**

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

**SHERRY A. DOTY  
CIRCUIT CLERK**

DAN CAULKINS et al.,

Plaintiffs,

v.

No. 2023 CH 3

JB PRITZKER et al.,

Defendants.

**FINAL JUDGMENT**

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 IV, 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 IV, 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




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Honorable Rodney S. Forbes  
Associate Judge

## APPEAL TO THE SUPREME COURT OF ILLINOIS

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

---

DAN CAULKINS; PERRY LEWIN;	)	
DECATUR JEWELRY & ANTIQUES	)	
INC; and LAW-ABIDING GUN OWNERS	)	
OF MACON COUNTY, a voluntary	)	
unincorporated association,	)	
	)	
Plaintiffs-Appellees,	)	
	)	No. 2023-CH-3
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,	)	The Honorable
	)	RODNEY S. FORBES,
Defendants-Appellants.	)	Judge Presiding.

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**NOTICE OF APPEAL**

Under Illinois Supreme Court Rule 302(a)(1), Defendants Governor Jay Robert Pritzker and Attorney General Kwame Raoul, in their official capacities, by their attorney, Kwame Raoul, Attorney General of the State of Illinois, hereby appeal directly to the Illinois Supreme Court from the final order entered by the Honorable Judge Rodney S. Forbes of the Circuit Court for the Sixth Judicial Circuit, Macon County, Illinois, on March 3, 2023, in which the circuit court granted defendants' motion for summary judgment on counts I, II, III, and VI of the complaint, but as to counts IV and V of the complaint ruled that sections 24-1.9 and 24-1.10 of the

Criminal Code of 2012, 720 ILCS 5/24-1.9 and 720 ILCS 5/24-1.10, on their face 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. A copy of the circuit court's March 3, 2023 order is attached hereto as Exhibit A.

By this appeal, Defendants Governor Jay Robert Pritzker and Attorney General Kwame Raoul, in their official capacities, request that the Illinois Supreme Court reverse and vacate the circuit court's order to the extent it is adverse to them, and grant any other appropriate relief.

Respectfully submitted,

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March 3, 2023

**FILED****MAR 03 2023**

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

**SHERRY A. DOTY  
CIRCUIT CLERK**

DAN CAULKINS et al.,

Plaintiffs,

v.

No. 2023 CH 3

JB PRITZKER et al.,

Defendants.

**FINAL JUDGMENT**

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 IV, 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 IV, 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




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Honorable Rodney S. Forbes  
Associate Judge

## CERTIFICATE OF FILING AND SERVICE

I certify that on March 3, 2023, I electronically filed the foregoing Notice of Appeal with the Clerk of the Circuit Court of the Sixth Judicial Circuit, Macon County, Illinois by using the Odyssey eFileIL system.

I further certify that the other participants in this case, named below, are not registered service contacts on the Odyssey eFileIL system, and that they will thus be served on March 3, 2023, by transmitting a copy from my e-mail address to the primary and secondary e-mail addresses designated by that participant.

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Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct to the best of my knowledge, information, and belief.

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## STATUTES AND CONSTITUTIONAL PROVISIONS

### **Ill. Const. art. I, § 2**

#### *Due Process and Equal Protection*

No 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. art. I, § 22**

#### *Right to Arms*

Subject only to the police power, the right of the individual citizen to keep and bear arms shall not be infringed.

### **Ill. Const. art. IV, § 13**

#### *Special Legislation*

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.

### **U.S. Const. amend. II**

#### *Keeping and Bearing Arms*

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.

### **720 ILCS 5/24-1.9**

#### *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 M-15 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.

**720 ILCS 5/24-1.10**

*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.

# State legislators urged to outlaw assault weapons: 'If we don't do something about this, shame on us'

★ [chicago.untimed.com/2022/12/12/23505898/a-assault-weapon-ban-highland-park-tate-legislators-judiciary-large-capacity-magazine](https://chicago.untimed.com/2022/12/12/23505898/a-assault-weapon-ban-highland-park-tate-legislators-judiciary-large-capacity-magazine)

December 12, 2022



Contina Patterson, who survived a Halloween mass shooting on the West Side, testifies Monday in Chicago before the Illinois House Judiciary Committee.

Anthony Vazquez/Sun-Times

Lauren Bennett spoke of the persistent fear that she would die from wounds she suffered in the Highland Park Fourth of July parade mass shooting and the physical scars that remain on her bullet-ridden body.

Conttina Patterson sat with crutches nearby — having lived through an East Garfield Park mass shooting on Halloween that left her with a bullet hole so large it broke a bone.

And activist Jaquie Algee brought a photograph of her son and told of the daily pain of decades of grief over Kenneth, who did not survive a 1995 shooting.

The three women were among those who testified before the Illinois House Judiciary Committee in Chicago on Monday, as legislators gear up to once again try to pass an assault weapons ban.

House Democrats on Dec. 1 introduced legislation that would ban the sale of assault weapons immediately, prevent sales of ammunition magazines holding more than 10 rounds and raise eligibility for a state firearm owner identification card for most Illinois residents to 21.

Sponsors need just 60 votes come Jan. 1, and they plan to take up the measure during the lame duck session early next month.

But the law is just a first step, Algee said.

“We can pass laws, but change will not happen unless we enforce change. And change has to be for everyone — from Highland Park to Roseland, from Englewood to Austin. Change has to happen for everyone,” she said. “And our legislators, all of you who are here and those that are not — from a city, from a state, from a federal perspective — have to be on the same page.

“Skip the aisle, don’t worry about the aisle. Because the aisle doesn’t exist when it comes to human loss, hurt and pain,” Algee said.

“If we don’t do something about this, shame on us,” said Algee, an official with SEIU Healthcare of Illinois, Indiana, Missouri and Kansas.

Patterson, one of 14 people wounded in East Garfield Park on Oct. 31, agreed that even more needs to be done.

“We need to be doing something about the guns,” she said. “Not only the AK 47, all guns. What will it take? So many have lost their lives. Not only being shot, but victims just not here anymore to speak.

“So I don’t know. What do we have to do? What can we do? What needs to be done? Stopping an AK-47 or an AR-15 type, that’s still not going to solve the problem. It’s still guns out here. A .22 can kill you. A nine millimeter can kill you. Something needs to be done with all guns,” Patterson said.

After the Highland Park shooting, legislators began meeting in a working group to try to come up with legislative solutions to prevent another mass shooting tragedy. Police say shooting suspect Robert Crimo III used a Smith & Wesson M&P15, an AR-15-style semi-automatic rifle whose initials, M&P, stand for “military and police” to kill seven people and injure 48 others.

Gov. J.B. Pritzker has said he would support passage of an assault weapons ban. Gun control groups have also formed a new nonprofit group called “Protect Illinois Communities,” which is helping to drum up support via television ads and mailers.

In 2015 in Illinois, the 7th U.S. Circuit Court of Appeals upheld an assault weapons ban in Highland Park, which could serve as a precedent for a statewide ban.

Bennett has been among the most vocal survivors of the Highland Park tragedy. She was shot twice in her hip and back as she attended the parade with her husband, children and in laws. She’s also among a group of survivors who have filed suit against gunmaker Smith & Wesson, two gun stores and Crimo III and his father, accusing them in part of violating Illinois consumer laws in the lead-up to the attack.

“For those who have never felt a bullet rip through your skin, let me explain how it feels,” Bennett said. “Imagine a hot metal, dartlike projectile tearing through your body at a supersonic speed, faster than the speed of sound.

“You’ll feel it burn through your skin, and likely you will quickly grab whatever part of your body was hit (because you know something is not right), only to feel that excessive amounts of blood draining out of you and soaking everything.

“At this point, you most likely feel as if you are dying, maybe wondering if this is how it all ends. I can assure you that is what I was thinking.”

Highland Park Mayor Nancy Rotering told legislators a statewide assault weapons ban would represent a common sense step that would be worth it just to save one life.


“Just like we don’t allow people to handle nuclear materials or own missile launchers and so on, these weapons are too dangerous for public access,” Rotering said. “Please help us reclaim our freedom and defend our human right to live. It’s time to turn prayers into action.”

State Rep. Maurice West, D-Rockford, implored legislators to be open to ongoing discussions about gun control legislation — noting that a ban on assault weapons won’t fix everything.

“It just takes one bullet to take a life,” West said. “I ask that, if we can’t measure twice and cut once on this piece of legislation, that we keep the lines of communication open, proactively, proactively not reactively like we had to do in this vein. Proactively, so that those who spoke to us today will know what we plan to do.”

No opponents of the measure spoke on Monday, but they're expected to participate in another hearing on Thursday. The Illinois State Rifle Association has said it plans to fight any assault weapons ban on constitutional grounds.

# Highland Park Hospital doesn't see many victims of gun violence. Then July Fourth happened. Here's how the day unfolded.

 [chicagotribune.com/business/ct-biz-highland-park-hospital-july-4-shooting-20220814-3pclhoiv3zcp7itrd2riy6g6wq-story.html](https://chicagotribune.com/business/ct-biz-highland-park-hospital-july-4-shooting-20220814-3pclhoiv3zcp7itrd2riy6g6wq-story.html)

## Business

By Lisa Schencker

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Pictures of the seven people killed during the Fourth of July parade shooting are displayed at a memorial in Port Clinton Square on July 11, 2022, in Highland Park. (Brian Cassella / Chicago Tribune)

It was relatively quiet the morning of July Fourth at Highland Park Hospital.

About half a dozen patients were in the emergency department of the more than 100 year old hospital, which sits in a leafy neighborhood of the normally peaceful suburb. The 21-bed ER was staffed the same way as it would have been on any other day: five nurses, two patient care technicians and one doctor.

That all changed within a few hours, after a gunman fired into the town's Fourth of July parade, killing seven and injuring dozens.

By late morning, nearly 30 nurses and 20 doctors were bustling through the ER. By mid-day, six surgeons were operating on 8-year-old Cooper Roberts, trying to keep him alive. At one point, doctors and nurses were treating patients with minor injuries in the waiting room, trying to keep space available elsewhere in the ER for people with more severe injuries.

Twenty six people wounded at the parade would be treated at Highland Park Hospital that day, with others sent to NorthShore's Glenbrook and Evanston hospitals and Northwestern Medicine Lake Forest Hospital.

NorthShore University HealthSystem's Highland Park Hospital, which does not usually see many victims of gun violence, had become the epicenter of people wounded at the parade and their worried families.

Even as patients were sent home, admitted to other areas of the hospital or transferred elsewhere, dozens of medical workers manned the ER until late in the day, when the alleged gunman was caught. The hospital wanted to be ready in case he shot more people.

"As terrible as all these events were, I think it highlights the good in people," said Dr. Ana Velez Rosborough, who was the on call surgeon at the hospital that day. "All the people that stepped up, from the first responders to the bystanders that were there, to all the medical professionals, it takes a lot of good to combat someone doing something so terrible."

### **'They just keep coming'**

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Around 10:30 a.m., the cellphones of doctors, nurses and other hospital staff pinged with alerts that multiple casualties were headed to the facility. Many received the alerts before they even knew there had been a shooting.

James Thompson, the hospital's ED clinical nurse manager, had been about to go into a restaurant with his family when his phone beeped with the alert. He called the ER registrar to see what happened and if he was needed.

"She said, 'They just keep coming. They just keep coming,' and she hung up," he said.

Immediately, he knew he needed to go.

When he arrived, patients' family members were standing outside the ER and people were being triaged in the waiting room, he said.

"When I walk in, it's just organized chaos, all the doctors, all the nurses who have come down from different floors to help us out," Thompson said.



Meanwhile, Velez-Rosborough was already in surgery with Cooper.

Velez Rosborough was rounding on other patients at the hospital July Fourth when the alert went out that there had been a multiple casualty event. She immediately made her way to the ER, where patients were just starting to arrive. In the beginning, they mostly came by ambulance, and as the minutes progressed, more began arriving by car.



Dr. Ana Velez-Rosborough, a trauma surgeon, on Aug. 10, 2022, at Highland Park Hospital. Velez-Rosborough was one of the many hospital staffers who treated mass shooting victims after the July Fourth parade. (Brian Cassella / Chicago Tribune)

When an ambulance brought Cooper to the hospital, it was clear that he would need surgery immediately.

Often, people with gunshot wounds go to hospitals that are designated as Level I trauma centers, meaning they have a certain number of services immediately available 24 hours a day. But Cooper's injuries were so severe that he was taken to nearby Highland Park Hospital, which is a Level II trauma center, rather than spend extra time in an ambulance going to NorthShore's Evanston Hospital, which would have been the nearest Level I trauma center.



Cooper had been shot through the upper part of his abdomen while watching the parade with his parents and twin brother. He suffered injuries to his liver, esophagus and aorta. Doctors would later discover a spinal cord injury as well.

“The goal in someone who is that critically injured, it’s called damage control — go in, stop the bleeding and stabilize the patient,” said Velez Rosborough, who is a trauma and acute care surgeon. Before joining NorthShore about a year ago, Velez-Rosborough trained at busy trauma centers in Miami and New York. She had expected the job at NorthShore to be quieter than her last one in Miami.

At first, Velez-Rosborough was the lone surgeon operating on Cooper. As the minutes passed, more surgeons joined her.

In all, she spent three to four hours operating on Cooper and was able to stabilize him. Right after the surgery, Cooper was flown by helicopter to University of Chicago Medicine Comer Children’s Hospital on the city’s South Side — a hospital that’s accustomed to treating children with complex needs and is part of a pediatric partnership with NorthShore.

Cooper has since undergone additional surgeries. He’s paralyzed from the waist down, and is now at the Shirley Ryan AbilityLab in Chicago, undergoing rehabilitation.

Cooper’s mother, Keely Roberts, has said the staff at Highland Park Hospital saved her son’s life.

“They fixed what could not be fixed in that little boy. It was nothing short of a miracle,” Keely Roberts said in a video statement. “They refused to give up on Cooper. They were not going to let that little boy die. How do you say thank you for that? What words as a mother, as a family, what words do you possibly have for people that would not give up on your son?”

## Training pays off

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Velez-Rosborough credited her training for allowing her to stay calm and focused.

“Emotionally and personally, it’s very difficult having to do that operation on a child,” Velez-Rosborough said. “I have a child myself. I have a 20 month old little boy, so it’s hard to kind of not see him in Cooper, but in the moment, you just kind of focus on doing what we need to do to keep him alive.”

The Miami hospital where she worked offered mass casualty trainings each month, she said. Highland Park Hospital does two disaster drills each year, one on its own and one as part of a larger regional drill, said Dr. Brigham Temple, NorthShore’s medical director of emergency preparedness. The federal Centers for Medicare & Medicaid Services requires hospitals to have emergency preparedness plans and hold exercises to test those plans twice a year.

While Velez-Rosborough operated on Cooper, the dozens of other medical workers in the ER that day also fell back on their training to carry them through the morning and afternoon.

“I can’t say enough how well the ER team really managed that,” Velez-Rosborough said. “While I was taking care of one patient, they were taking care of 25 other patients.”

At first, as patients poured into the ER, there was “a little bit of a feeling of being overwhelmed, but that quickly turned to calm and focused care,” Temple said.

Temple, who lives in Highland Park, arrived at the ER about 20 minutes after the shooting. Temple was at the parade with his wife, three teenage sons and parents when he saw members of the high school marching band running for their lives. He and his family were able to dash to their car about a block away.



Dr. Brigham Temple, the medical director of emergency preparedness, on Aug. 10, 20 2, at Highland Park Hospital. Temple was among the hospital staff who treated mass shooting victims after the July Fourth parade. (Brian Cassella / Chicago Tribune)

He saw the alert on his phone that a code triage had been called at the hospital. He dropped off his family and headed to the hospital, where his job was to help run the emergency department and assist with patients.

“Of course I never wanted to see an event like this happen anywhere in this country or anywhere else, and especially not in our own backyard, but there was no hesitation on my part or any other individual who showed up to respond,” Temple said. “I knew something needed to be done, and that was what I’d been training for.”

Highland Park Hospital had just conducted a drill weeks earlier on how to respond to a surge of burn patients. In past years, drills have focused on mass casualty events, such as shootings, Temple said.

“You can train all day, but when you actually do get to that time you just hope the training is going to kick in and for the group that was here, that training definitely kicked in,” said Thompson, the ED clinical nurse manager, who left a career in finance 15 years ago to work in medicine, in hopes of helping people in a more hands-on way.

“I think it was well oiled because we had practiced so many times.”

### **‘It does leave a scar’**

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The doctors, nurses and other medical staff remained in that focused state-of-mind for much of July Fourth as the hospital was put on lockdown amid a manhunt for the suspected shooter, Thompson said.

About eight hours after the shooting, Robert E. “Bobby” Crimo III, was arrested. Crimo, 21, entered a not guilty plea at his arraignment in Lake County Circuit Court on Aug. 3 after a grand jury indicted him on 117 felony counts.

“Once he got apprehended we all took kind of a big deep breath and could say, ‘OK, we can all go home to our families,’ ” Thompson said.

Still, even after the medical workers doffed their scrubs, the ordeal was not yet over for many of them. One person, 88-year-old Stephen Straus, of Highland Park died in the Highland Park ER that day.

“We’re so focused on taking care of the patients and making sure we’re there doing what we need to do, you just don’t think about the fact that everything is happening,” Velez-Rosborough said. “It really wasn’t until a couple of days later that it really hit me what had happened.”

It didn’t fully hit Thompson until he was driving home from the hospital that evening.

“I just had me and my thoughts to myself, and it was in that moment, in my car driving myself home, that I really got to reflect on, ‘Wow, what have you just been through?’ ” he said.



James Thompson, a registered nurse and clinical manager in the emergency department, on Aug. 10, 2022, at Highland Park Hospital. Thompson was one of many hospital staffers who helped treat victims after the parade shooting. (Brian Cassella / Chicago Tribune)

In the days and weeks following the shooting, the hospital had crisis counselors on-site, and held three debriefings for those who were in the ER that day aimed at their emotional well-being. Thompson attended all three gatherings.

“It does get to you, and it does leave a scar and being in (emergency medical services) and emergency medicine, you have to deal with those scars because, at some point, if you don’t deal with them, bad things can happen with you mentally,” Thompson said.

It’s a comfort to him that his team worked so well together on the Fourth of July. He said he’s “extremely proud” of them and their dedication.

“They did exemplary work that day,” he said. “If you could say you wish there was a miracle every day, that would have been the miracle you would have wished for.”

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# Surrounding Suburbs Cancel 4th of July Events in Wake of Highland Park Parade Shooting

[5 nbcchicago.com/news/local/surrounding-suburb-cancel-4th-of-july-event-in-wake-of-highland-park-parade-shooting/2872806](https://www.nbcchicago.com/news/local/surrounding-suburb-cancel-4th-of-july-event-in-wake-of-highland-park-parade-shooting/2872806)



Multiple northern Chicago suburbs canceled Fourth of July events following a mass shooting along the Highland Park Independence Day Parade route Monday that left more than two dozen people shot, six of them killed.

Glencoe officials said the village was canceling its Fourth of July parade as the city urged residents to "remain home" with the "threat still at large."

"There have been no incidents or direct threats to Glencoe. Public Safety are monitoring the situation and recommend avoiding public and crowded areas at this time," the village tweeted.

Due to local events, the Village has decided to cancel today's Fourth of July parade out of an abundance of caution. There have been no incidents or direct threats to Glencoe. Public Safety are monitoring the situation and recommend avoiding public and crowded areas at this time.

Village of Glencoe, Illinois (@VGlencoe) July 4, 2022

UPDATE - The threat is still at large. We encourage everyone to remain home. Further information will be provided when available.

— Village of Glencoe, Illinois (@VGlencoe) July 4, 2022

Glenview police announced around 11 a.m. that the town's Fourth of July Parade was canceled "out of an abundance of caution."

"There have been no incidents or direct threats to Glenview," the department tweeted, adding that police were clearing the parade area, but the town's fireworks display is still expected to take place Monday evening.

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At least 38 people were shot and at least seven killed Monday morning in a shooting at Highland Park's Independence Day parade. A person of interest has been apprehended.

Due to local events and out of an abundance of caution, the Glenview Fourth of July Parade has been canceled. There have been no incidents or direct threats to Glenview. Glenview Police are now working to clear the parade area. The fireworks show is still going on this evening.

— GlenviewILPD (@GlenviewILPD) July 4, 2022

Nearby Deerfield announced its Family Days activities at Jewett Park were cleared and the parade in the town was canceled.

Due to a shooting in Highland Park, Family Days activities at Jewett Park have been cleared and the parade is canceled. Please share that the parade activities are canceled with your family and friends.

Village of Deerfield (@Deerfield\_IL) July 4, 2022

Evanston police said its holiday celebrations were canceled "effective immediately" due to the "tragic mass shooting."

"While there is no known threat to Evanston residents, the shooter is still at large; therefore, cancelations are taking place in an abundance of caution," the suburb stated in an alert. "Our thoughts and prayers are with our neighbors to the north."

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Northbrook announced its holiday activities, including the bike parade, mile-long parade and fireworks show were all canceled.

"Our thoughts are with our Highland Park neighbors," the suburb said in an alert to residents.

Morton Grove and Skokie also announced their parades were canceled Monday and Lake Forest said its festival and fireworks display would not be happening. The Village of Mount Prospect canceled its 4th of July parade, the remainder of the Lions Club Festival at Melas Park and the fireworks display for Monday evening and Buffalo Grove said all 4th of July events, including the Symphonic Band concert and fireworks display, have been canceled.

Arlington Heights, Elgin, Waukegan, Woodridge, Downers Grove, Wilmette, Lombard, Oak Park, Elk Grove, Itasca, Rolling Meadows and Long Grove all reported canceled events in wake of the shooting.

The Chicago White Sox announced that while their game against Minnesota will continue as scheduled Monday night, the post game fireworks display will not take place and a moment of silence will instead be held prior to the game.

Six Flags Great America amusement park also canceled its fireworks and announced plans to close at 8 p.m. "out of an abundance of caution."

The public is being asked to avoid downtown Highland Park Monday as police respond to a shooting "in the area of the Independence Day parade route," the Lake County Sheriff posted on Twitter.

"STAY OUT OF THE AREA - allow law-enforcement and first responders to do their work," the sheriff posted.

Illinois State Police said the shooting situation is "active."

"The Illinois State Police is currently assisting Highland Park PD with an active shoot situation that occurred at the Highland Park Parade," police tweeted. "The public is advised to avoid the area of Central Ave and 2nd St. in Highland Park."

According to multiple reports on Twitter, gunshots were heard at Highland Park's Fourth of July parade. Further details were not immediately confirmed by police.

The city of Highland Park also urged people to avoid the area.

"Fourth Fest has been canceled. Please avoid downtown Highland Park. More information will be shared as it becomes available," the north suburban Chicago town posted.

*This is a breaking news story. Check back as details emerge.*

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# Illinois assault weapons ban advances after Democratic deal, echoes of a child's screams

★ [chicago.untimed.com/2023/1/9/23547414/a-assault-weapon-ban-illinois-tate-enate-harmon-highland-park-harmon-pritzker-welch](https://chicago.untimed.com/2023/1/9/23547414/a-assault-weapon-ban-illinois-tate-enate-harmon-highland-park-harmon-pritzker-welch)

January 10, 2023



Flowers sit on a curb near a child's bicycle one day after a gunman killed seven people and wounded dozens at Highland Park's Fourth of July parade in 2022.

Ashlee Rezin/Sun-Times file

SPRINGFIELD — Illinois moved one step closer to banning the sale of assault weapons in the state — as the Illinois Senate on Monday approved legislation that would also halt the sale of large-capacity magazines.



Senators made several changes to the measure that cleared the Illinois House Friday, and it must now go back to the Illinois House for concurrence.

With the Illinois General Assembly holding its inaugurations Wednesday, Tuesday is the last day of the lame-duck session.

And that second to last day was a busy one, including the governor and top Democratic leaders working through their differences and a mother urging action by playing the recorded screams of a child reacting to the horrors of the Highland Park Fourth of July parade massacre.

“This is what it sounds like when a child runs from an assault weapon,” Ashbey Beasley told senators after the screams filled a Senate hearing room. “This is what happens when a child goes to a parade in our country.”

Hours later, the Illinois Senate voted 34 20 to approve the package of gun restrictions.

“There are many laws on the books, but in the end, what we believe is the proliferation and ready access to high-powered weapons that have original basis in military and combat have no place in common commerce and on our streets,” Senate President Don Harmon, D-Oak Park, and the bill’s sponsor, said during the debate.

“This is an effort that will not solve the problem. We don’t pretend that it will. But it is an additional tool to curb the flow of firearms into our communities, firearms that absolutely destroy and eviscerate human beings and for which there are much more satisfactory substitutes for hunting.”

To those claiming the legislation will be deemed unconstitutional, Harmon ended the debate with, “We’ll see you in court.”

Harmon said there were several changes made since senators held a subject matter hearing on the bill Monday morning, including asking the Illinois State Police by administrative rule to provide further guidance to make sure hunters are not impeded. Private security contractors would also be offered exemptions regarding their firearms and magazines.

Language on high capacity magazines was also changed, with 10 rounds allowed for long guns and 15 for handguns. The list of assault weapons was also updated.

Other changes including allowing the Illinois State Police to add guns to the list of banned assault weapons.

The passage came a day after Gov. J.B. Pritzker and Illinois House Speaker Emanuel “Chris” Welch criticized earlier Senate revisions. But on Monday, Pritzker and Welch joined Harmon in a joint statement in support of the measure.

“After continued negotiations between the leaders, stakeholders and advocates, we have reached a deal on one of the strongest assault weapons bans in the country,” the statement said. “Gun violence is an epidemic that is plaguing every corner of this state, and the people of Illinois are demanding substantive action. With this legislation we are delivering on the promises Democrats have made, and together, we are making Illinois’ gun laws a model for the nation.”

During debate, Republican senators argued the legislation is unconstitutional and punishes law-abiding gun owners in the state.

“All of you that are thinking about voting for this today, you should resign,” state Sen. Neil Anderson, R Moline said. “This is a blatant disregard for the United States Constitution.”

Sen. Chapin Rose, R-Mahomet, said the state should focus on enforcing the laws that already exist, instead of creating new ones.

“We’re going to make felons out of taxpayers. Why don’t we go after the bad guys, put them behind bars and actually keep them there?” Rose said. “Put the bad guys behind the bars, not the taxpayers, not the citizens.”

Earlier, during a Senate Executive Committee meeting, lawmakers heard audio that began with a high pitched cry from a child with not enough air to take a breath.

“What is happening?” the child screams in exasperation and in fear. “What is happening?”

Beasley played the chilling audio as she testified in support of the Senate measure. Beasley escaped harm at the Highland Park shooting alongside her 6-year-old son, whom she told lawmakers is undergoing trauma counseling.

“My son hasn’t been the same since the parade,” Beasley said. “A couple of days later, he grabbed his head and said it was too full of thoughts, and he vomited all over the place. He began to wear his clothes inside out, backward, wet the bed for months and had to see a trauma specialist. All because I took him to a parade.”

She said someone sent her the audio of the child who was at the parade. She said understanding that it had also affected other children, just as it did her son, “broke” her.

Harmon implored senators to remember that audio clip, saying his own words weren’t as powerful as the child “screaming, ‘What’s happening?’

“Let’s remember that when we go to the floor and take this up,” said Harmon.

## CERTIFICATE OF FILING AND SERVICE

I certify that on March 20, 2023, I electronically filed the foregoing **Brief and Appendix of Defendants-Appellants** with the Clerk of the Court for the Supreme Court of Illinois by using the Odyssey eFileIL system.

I further certify that the other participants in this appeal, named below, are registered service contacts on the Odyssey eFileIL system, and thus will be served via the Odyssey eFileIL system.

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Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct to the best of my knowledge, information, and belief.

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