



“Know Your Rights” Advisory:
***Safely Participating in Peaceful Protests in
Illinois***

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Introduction

It is impossible to overstate the importance of peaceful demonstrations to American democracy, both historically and in the present moment. The Office of the Illinois Attorney General is issuing this “Know Your Rights” advisory to help Illinois residents understand their rights and responsibilities when engaging in protected First Amendment protest activities in this State. This advisory also provides information regarding local law enforcement’s obligations to protect both free speech and public safety and to follow all relevant laws—including the Illinois TRUST Act’s general prohibition on assisting with federal civil immigration enforcement—when responding to demonstrations or other protest activities.

In Illinois, what are protesters’ rights and responsibilities?

The First Amendment to the U.S. Constitution¹ protects the right to free speech and peaceable assembly, which includes the right to engage in protests, marches, and demonstrations to express one’s views, even and especially if those views are critical of government policies. Historically, these First Amendment rights have generally been understood to extend to everyone within the United States, regardless of immigration or citizenship status.² In Illinois:

- The right to protest extends to public spaces like sidewalks, parks, and streets, but it does not include private property.
- Protestors do not need a permit to march in public spaces as long as they do not obstruct car or pedestrian traffic. In the absence of a permit, police may ask any person to move to the side of a street or sidewalk for safety reasons.
- Although anyone who is lawfully in a public space may photograph or record anything or any person, including law enforcement officers, in plain view, state law requires the consent of all parties to record any part of a *private* conversation.³
- Protestors should obey orders issued by local law enforcement.
- Physical violence against any party, destruction of property, criminal trespass onto private property, or other criminal activities that pose a threat to the safety of others are **NOT** protected by the First Amendment.

¹ “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.” U.S. Const. Amend. 1.

² *Bridges v. Wixon*, 326 U.S. 135, 148 (1945).

³ 720 ILCS 5/14-2(a). Illinois law expressly provides that members of the public are not prohibited from “recording a law enforcement officer in the performance of his or her duties in a public place or in circumstances in which the officer has no reasonable expectation of privacy. However, an officer may take reasonable action to maintain safety and control, secure crime scenes and accident sites, protect the integrity and confidentiality of investigations, and protect the public safety and order.” 720 ILCS 5/14-2(e).

- Assaulting a police officer performing their official duties is a felony under state law,⁴ and assault or battery committed on a public way or on public property may be charged as aggravated assault or battery.⁵
- Protestors must also comply with applicable federal laws. Among other things, it is a federal crime (1) to assault, intimidate, or interfere with an officer or employee of the United States government while they are engaged in the performance of official duties⁶ or (2) to obstruct or impede a federal civil immigration enforcement operation.⁷

In Illinois, what can protestors and other members of the public expect from local law enforcement responding to a protest action?

Local law enforcement is responsible for **maintaining public safety** during any type of protest action and **protecting individuals' First Amendment rights**, including the rights to free speech and peaceful assembly.

- To **ensure the safety of all**—including those exercising their constitutional right to peaceful protest, bystanders, and other members of the public—**local law enforcement officers may**:
 - Be present on the scene for monitoring purposes
 - Take appropriate crowd management and traffic control measures as necessary
 - Intervene to stop physical violence against any party, destruction of property, criminal trespass onto private property, or other criminal activity that poses a threat to the safety of others
 - Issue a crowd dispersal order for public safety purposes
- Local law enforcement must **respect the constitutional and civil rights of all individuals**. In responding to any protest, **local law enforcement officers may not**:
 - Prevent anyone who is lawfully present in a public space from photographing anything in plain view
 - Search individuals or their belongings, including their phones, without consent if they are not under arrest (but law enforcement may pat down clothing for a weapon if there is reasonable suspicion that a person is armed)
 - Give different treatment to protestors and counter-protesters
 - Use disproportionate force in responding to any alleged criminal activity

⁴ 720 ILCS 5/12-2(b)(4.1)(i-iii).

⁵ 720 ILCS 5/12-2(a); 720 ILCS 5/12-3.05(c).

⁶ 18 U.S.C. § 111.

⁷ 18 U.S.C. § 1505.

- Arrest anyone for violating a lawful dispersal order without first communicating that order and providing a reasonable opportunity to comply⁸

Additionally, in Illinois, a state law called **the TRUST Act generally prohibits local law enforcement from participating in civil immigration enforcement.**⁹

- In responding to any protest, including protests of federal immigration agents' enforcement actions, under the TRUST Act, **local law enforcement officers may not:**
 - Help federal agents conduct civil immigration enforcement operations¹⁰
 - Stop, arrest, search, detain, or continue to detain anyone solely based on citizenship or immigration status¹¹
 - Ask anyone in custody or who has otherwise been stopped or detained about their citizenship or immigration status¹²
- The **TRUST Act does not prevent local law enforcement from taking actions to protect public safety**, such as using lawful crowd control tactics (including establishing a security or traffic perimeter for public safety purposes) and enforcing criminal laws prohibiting violence and property destruction.

If you think your rights or someone else's rights are being violated, remain calm, document all relevant information, and do not use force or otherwise resist arrest. You may file a complaint regarding an alleged civil rights or TRUST Act violation by law enforcement by contacting the Office of the Illinois Attorney General's Civil Rights Bureau by phone at 1-877-581-3692 or by email at civilrights@ilag.gov.

⁸ See, e.g., *Vodak v. City of Chicago*, 639 F.3d 738, 745–47 (7th Cir. 2011).

⁹ 5 ILCS 805/15.

¹⁰ 5 ILCS 805/15(h).

¹¹ 5 ILCS 805/15(b).

¹² 5 ILCS 805/15(e).