



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1734

Introduced 2/20/2015, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-9005
735 ILCS 5/2-202

from Ch. 34, par. 3-9005
from Ch. 110, par. 2-202

Amends the Counties Code. Provides that in counties of the first, second, and third class, the fees for service of subpoenas and summons by special investigators are allowed and the special investigators may charge service fees in an amount as prescribed in other sections of the Counties Code, unless the service fee is increased by county ordinance. Amends the Code of Civil Procedure. Provides that a special investigator appointed by the State's Attorney may serve process when the county or State is an interested party and a court may charge the special investigator's service fees as costs in the proceeding. Effective immediately.

LRB099 08064 AWJ 28210 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing Section
5 3-9005 as follows:

6 (55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)
7 Sec. 3-9005. Powers and duties of State's attorney.

8 (a) The duty of each State's attorney shall be:

9 (1) To commence and prosecute all actions, suits,
10 indictments and prosecutions, civil and criminal, in the
11 circuit court for his county, in which the people of the
12 State or county may be concerned.

13 (2) To prosecute all forfeited bonds and
14 recognizances, and all actions and proceedings for the
15 recovery of debts, revenues, moneys, fines, penalties and
16 forfeitures accruing to the State or his county, or to any
17 school district or road district in his county; also, to
18 prosecute all suits in his county against railroad or
19 transportation companies, which may be prosecuted in the
20 name of the People of the State of Illinois.

21 (3) To commence and prosecute all actions and
22 proceedings brought by any county officer in his official
23 capacity.

1 (4) To defend all actions and proceedings brought
2 against his county, or against any county or State officer,
3 in his official capacity, within his county.

4 (5) To attend the examination of all persons brought
5 before any judge on habeas corpus, when the prosecution is
6 in his county.

7 (6) To attend before judges and prosecute charges of
8 felony or misdemeanor, for which the offender is required
9 to be recognized to appear before the circuit court, when
10 in his power so to do.

11 (7) To give his opinion, without fee or reward, to any
12 county officer in his county, upon any question or law
13 relating to any criminal or other matter, in which the
14 people or the county may be concerned.

15 (8) To assist the attorney general whenever it may be
16 necessary, and in cases of appeal from his county to the
17 Supreme Court, to which it is the duty of the attorney
18 general to attend, he shall furnish the attorney general at
19 least 10 days before such is due to be filed, a manuscript
20 of a proposed statement, brief and argument to be printed
21 and filed on behalf of the people, prepared in accordance
22 with the rules of the Supreme Court. However, if such
23 brief, argument or other document is due to be filed by law
24 or order of court within this 10 day period, then the
25 State's attorney shall furnish such as soon as may be
26 reasonable.

1 (9) To pay all moneys received by him in trust, without
2 delay, to the officer who by law is entitled to the custody
3 thereof.

4 (10) To notify, by first class mail, complaining
5 witnesses of the ultimate disposition of the cases arising
6 from an indictment or an information.

7 (11) To perform such other and further duties as may,
8 from time to time, be enjoined on him by law.

9 (12) To appear in all proceedings by collectors of
10 taxes against delinquent taxpayers for judgments to sell
11 real estate, and see that all the necessary preliminary
12 steps have been legally taken to make the judgment legal
13 and binding.

14 (13) To notify, by first-class mail, the State
15 Superintendent of Education, the applicable regional
16 superintendent of schools, and the superintendent of the
17 employing school district or the chief school
18 administrator of the employing nonpublic school, if any,
19 upon the conviction of any individual known to possess a
20 certificate or license issued pursuant to Article 21 or
21 21B, respectively, of the School Code of any offense set
22 forth in Section 21B-80 of the School Code or any other
23 felony conviction, providing the name of the certificate
24 holder, the fact of the conviction, and the name and
25 location of the court where the conviction occurred. The
26 certificate holder must also be contemporaneously sent a

1 copy of the notice.

2 (b) The State's Attorney of each county shall have
3 authority to appoint one or more special investigators to serve
4 subpoenas, summonses, make return of process, and conduct
5 investigations which assist the State's Attorney in the
6 performance of his duties. In counties of the first and second
7 class, the fees for service of subpoenas and summonses are
8 allowed by this Section and shall be consistent with those set
9 forth in Section 4-5001 of this Act, except when increased by
10 county ordinance as provided for in Section 4-5001. In counties
11 of the third class, the fees for service of subpoenas and
12 summonses are allowed by this Section and shall be consistent
13 with those set forth in Section 4-12001 of this Act. A special
14 investigator shall not carry firearms except with permission of
15 the State's Attorney and only while carrying appropriate
16 identification indicating his employment and in the
17 performance of his assigned duties.

18 Subject to the qualifications set forth in this subsection,
19 special investigators shall be peace officers and shall have
20 all the powers possessed by investigators under the State's
21 Attorneys Appellate Prosecutor's Act.

22 No special investigator employed by the State's Attorney
23 shall have peace officer status or exercise police powers
24 unless he or she successfully completes the basic police
25 training course mandated and approved by the Illinois Law
26 Enforcement Training Standards Board or such board waives the

1 training requirement by reason of the special investigator's
2 prior law enforcement experience or training or both. Any
3 State's Attorney appointing a special investigator shall
4 consult with all affected local police agencies, to the extent
5 consistent with the public interest, if the special
6 investigator is assigned to areas within that agency's
7 jurisdiction.

8 Before a person is appointed as a special investigator, his
9 fingerprints shall be taken and transmitted to the Department
10 of State Police. The Department shall examine its records and
11 submit to the State's Attorney of the county in which the
12 investigator seeks appointment any conviction information
13 concerning the person on file with the Department. No person
14 shall be appointed as a special investigator if he has been
15 convicted of a felony or other offense involving moral
16 turpitude. A special investigator shall be paid a salary and be
17 reimbursed for actual expenses incurred in performing his
18 assigned duties. The county board shall approve the salary and
19 actual expenses and appropriate the salary and expenses in the
20 manner prescribed by law or ordinance.

21 (c) The State's Attorney may request and receive from
22 employers, labor unions, telephone companies, and utility
23 companies location information concerning putative fathers and
24 noncustodial parents for the purpose of establishing a child's
25 paternity or establishing, enforcing, or modifying a child
26 support obligation. In this subsection, "location information"

1 means information about (i) the physical whereabouts of a
2 putative father or noncustodial parent, (ii) the putative
3 father or noncustodial parent's employer, or (iii) the salary,
4 wages, and other compensation paid and the health insurance
5 coverage provided to the putative father or noncustodial parent
6 by the employer of the putative father or noncustodial parent
7 or by a labor union of which the putative father or
8 noncustodial parent is a member.

9 (d) For each State fiscal year, the State's Attorney of
10 Cook County shall appear before the General Assembly and
11 request appropriations to be made from the Capital Litigation
12 Trust Fund to the State Treasurer for the purpose of providing
13 assistance in the prosecution of capital cases in Cook County
14 and for the purpose of providing assistance to the State in
15 post-conviction proceedings in capital cases under Article 122
16 of the Code of Criminal Procedure of 1963 and in relation to
17 petitions filed under Section 2-1401 of the Code of Civil
18 Procedure in relation to capital cases. The State's Attorney
19 may appear before the General Assembly at other times during
20 the State's fiscal year to request supplemental appropriations
21 from the Trust Fund to the State Treasurer.

22 (e) The State's Attorney shall have the authority to enter
23 into a written agreement with the Department of Revenue for
24 pursuit of civil liability under subsection (E) of Section 17-1
25 of the Criminal Code of 2012 against persons who have issued to
26 the Department checks or other orders in violation of the

1 provisions of paragraph (1) of subsection (B) of Section 17-1
2 of the Criminal Code of 2012, with the Department to retain the
3 amount owing upon the dishonored check or order along with the
4 dishonored check fee imposed under the Uniform Penalty and
5 Interest Act, with the balance of damages, fees, and costs
6 collected under subsection (E) of Section 17-1 of the Criminal
7 Code of 2012 or under Section 17-1a of that Code to be retained
8 by the State's Attorney. The agreement shall not affect the
9 allocation of fines and costs imposed in any criminal
10 prosecution.

11 (Source: P.A. 96-431, eff. 8-13-09; 96-1551, eff. 7-1-11;
12 97-607, eff. 8-26-11; 97-1150, eff. 1-25-13.)

13 Section 10. The Code of Civil Procedure is amended by
14 changing Section 2-202 as follows:

15 (735 ILCS 5/2-202) (from Ch. 110, par. 2-202)

16 Sec. 2-202. Persons authorized to serve process; Place of
17 service; Failure to make return.

18 (a) Process shall be served by a sheriff, or if the sheriff
19 is disqualified, by a coroner of some county of the State. In
20 matters where the county or State is an interested party,
21 process may be served by a special investigator appointed by
22 the State's Attorney of the County, as defined in Section
23 3-9005 of the Counties Code. A sheriff of a county with a
24 population of less than 2,000,000 may employ civilian personnel

1 to serve process. In counties with a population of less than
2 2,000,000, process may be served, without special appointment,
3 by a person who is licensed or registered as a private
4 detective under the Private Detective, Private Alarm, Private
5 Security, Fingerprint Vendor, and Locksmith Act of 2004 or by a
6 registered employee of a private detective agency certified
7 under that Act as defined in Section (a-5). A private detective
8 or licensed employee must supply the sheriff of any county in
9 which he serves process with a copy of his license or
10 certificate; however, the failure of a person to supply the
11 copy shall not in any way impair the validity of process served
12 by the person. The court may, in its discretion upon motion,
13 order service to be made by a private person over 18 years of
14 age and not a party to the action. It is not necessary that
15 service be made by a sheriff or coroner of the county in which
16 service is made. If served or sought to be served by a sheriff
17 or coroner, he or she shall endorse his or her return thereon,
18 and if by a private person the return shall be by affidavit.

19 (a-5) Upon motion and in its discretion, the court may
20 appoint as a special process server a private detective agency
21 certified under the Private Detective, Private Alarm, Private
22 Security, Fingerprint Vendor, and Locksmith Act of 2004. Under
23 the appointment, any employee of the private detective agency
24 who is registered under that Act may serve the process. The
25 motion and the order of appointment must contain the number of
26 the certificate issued to the private detective agency by the

1 Department of Professional Regulation under the Private
2 Detective, Private Alarm, Private Security, Fingerprint
3 Vendor, and Locksmith Act of 2004. A private detective or
4 private detective agency shall send, one time only, a copy of
5 his, her, or its individual private detective license or
6 private detective agency certificate to the county sheriff in
7 each county in which the detective or detective agency or his,
8 her, or its employees serve process, regardless of size of the
9 population of the county. As long as the license or certificate
10 is valid and meets the requirements of the Department of
11 Financial and Professional Regulation, a new copy of the
12 current license or certificate need not be sent to the sheriff.
13 A private detective agency shall maintain a list of its
14 registered employees. Registered employees shall consist of:

15 (1) an employee who works for the agency holding a
16 valid Permanent Employee Registration Card;

17 (2) a person who has applied for a Permanent Employee
18 Registration Card, has had his or her fingerprints
19 processed and cleared by the Department of State Police and
20 the FBI, and as to whom the Department of Financial and
21 Professional Regulation website shows that the person's
22 application for a Permanent Employee Registration Card is
23 pending;

24 (3) a person employed by a private detective agency who
25 is exempt from a Permanent Employee Registration Card
26 requirement because the person is a current peace officer;

1 and

2 (4) a private detective who works for a private
3 detective agency as an employee.

4 A detective agency shall maintain this list and forward it to
5 any sheriff's department that requests this list within 5
6 business days after the receipt of the request.

7 (b) Summons may be served upon the defendants wherever they
8 may be found in the State, by any person authorized to serve
9 process. An officer may serve summons in his or her official
10 capacity outside his or her county, but fees for mileage
11 outside the county of the officer cannot be taxed as costs. The
12 person serving the process in a foreign county may make return
13 by mail.

14 (c) If any sheriff, coroner, or other person to whom any
15 process is delivered, neglects or refuses to make return of the
16 same, the plaintiff may petition the court to enter a rule
17 requiring the sheriff, coroner, or other person, to make return
18 of the process on a day to be fixed by the court, or to show
19 cause on that day why that person should not be attached for
20 contempt of the court. The plaintiff shall then cause a written
21 notice of the rule to be served on the sheriff, coroner, or
22 other person. If good and sufficient cause be not shown to
23 excuse the officer or other person, the court shall adjudge him
24 or her guilty of a contempt, and shall impose punishment as in
25 other cases of contempt.

26 (d) If process is served by a sheriff, ~~or~~ coroner, or

1 special investigator appointed by the State's Attorney, the
2 court may tax the fee of the sheriff, ~~or~~ coroner, or State's
3 Attorney's special investigator as costs in the proceeding. If
4 process is served by a private person or entity, the court may
5 establish a fee therefor and tax such fee as costs in the
6 proceedings.

7 (e) In addition to the powers stated in Section 8.1a of the
8 Housing Authorities Act, in counties with a population of
9 3,000,000 or more inhabitants, members of a housing authority
10 police force may serve process for forcible entry and detainer
11 actions commenced by that housing authority and may execute
12 orders of possession for that housing authority.

13 (f) In counties with a population of 3,000,000 or more,
14 process may be served, with special appointment by the court,
15 by a private process server or a law enforcement agency other
16 than the county sheriff in proceedings instituted under the
17 Forcible Entry and Detainer Article of this Code as a result of
18 a lessor or lessor's assignee declaring a lease void pursuant
19 to Section 11 of the Controlled Substance and Cannabis Nuisance
20 Act.

21 (Source: P.A. 96-1451, eff. 8-20-10; 97-427, eff. 1-1-12.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.