



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4351

Introduced 1/16/2024, by Rep. Jennifer Gong-Gershowitz

SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-202

from Ch. 110, par. 2-202

Amends the Code of Civil Procedure. Provides that process may (rather than shall) be served by a sheriff, or if the sheriff is disqualified, by a coroner of some county of the State. Removes language providing that process may be served by a person who is licensed or registered as a private detective or by a registered employee of a private detective agency in counties with a population of less than 2,000,000 (and instead allows process to be served in such a manner statewide). Removes language providing that upon motion and in its discretion, the court may appoint as a special process server a private detective agency and, under the appointment, any employee of the private detective agency may serve the process.

LRB103 36160 LNS 66252 b

1 AN ACT concerning civil law.

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

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 2-202 as follows:

6 (735 ILCS 5/2-202) (from Ch. 110, par. 2-202)

7 Sec. 2-202. Persons authorized to serve process; place of
8 service; failure to make return.

9 (a) Process may ~~shall~~ be served by a sheriff, or if the
10 sheriff is disqualified, by a coroner of some county of the
11 State. In matters where the county or State is an interested
12 party, process may be served by a special investigator
13 appointed by the State's Attorney of the county, as defined in
14 Section 3-9005 of the Counties Code. A sheriff of a county with
15 a population of less than 2,000,000 may employ civilian
16 personnel to serve process. Process ~~In counties with a~~
17 ~~population of less than 2,000,000, process may also be served,~~
18 ~~without special appointment,~~ by a person who is licensed or
19 registered as a private detective under the Private Detective,
20 Private Alarm, Private Security, Fingerprint Vendor, and
21 Locksmith Act of 2004 or by a registered employee of a private
22 detective agency certified under that Act ~~as defined in~~
23 ~~Section (a-5)~~. A private detective or licensed employee must

1 supply the sheriff of any county in which he serves process
2 with a copy of his license or certificate; however, the
3 failure of a person to supply the copy shall not in any way
4 impair the validity of process served by the person. The court
5 may, in its discretion upon motion, order service to be made by
6 a private person over 18 years of age and not a party to the
7 action. It is not necessary that service be made by a sheriff
8 or coroner of the county in which service is made. If served or
9 sought to be served by a sheriff or coroner, he or she shall
10 endorse his or her return thereon, and if by a private person
11 the return shall be by affidavit.

12 ~~(a-5) Upon motion and in its discretion, the court may~~
13 ~~appoint as a special process server a private detective agency~~
14 ~~certified under the Private Detective, Private Alarm, Private~~
15 ~~Security, Fingerprint Vendor, and Locksmith Act of 2004. Under~~
16 ~~the appointment, any employee of the private detective agency~~
17 ~~who is registered under that Act may serve the process. The~~
18 ~~motion and the order of appointment must contain the number of~~
19 ~~the certificate issued to the private detective agency by the~~
20 ~~Department of Professional Regulation under the Private~~
21 ~~Detective, Private Alarm, Private Security, Fingerprint~~
22 ~~Vendor, and Locksmith Act of 2004. A private detective or~~
23 private detective agency shall send, one time only, a copy of
24 his, her, or its individual private detective license or
25 private detective agency certificate to the county sheriff in
26 each county in which the detective or detective agency or his,

1 her, or its employees serve process, regardless of the size of
2 the population of the county. As long as the license or
3 certificate is valid and meets the requirements of the
4 Department of Financial and Professional Regulation, a new
5 copy of the current license or certificate need not be sent to
6 the sheriff. A private detective agency shall maintain a list
7 of its registered employees. Registered employees shall
8 consist of:

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

11 (2) a person who has applied for a Permanent Employee
12 Registration Card, has had his or her fingerprints
13 processed and cleared by the Illinois State Police and the
14 FBI, and as to whom the Department of Financial and
15 Professional Regulation website shows that the person's
16 application for a Permanent Employee Registration Card is
17 pending;

18 (3) a person employed by a private detective agency
19 who is exempt from a Permanent Employee Registration Card
20 requirement because the person is a current peace officer;
21 and

22 (4) a private detective who works for a private
23 detective agency as an employee.

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

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

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

20 (d) Except as provided in Sections 1-19, 3-17, 4-14, and
21 5-252 of the Juvenile Court Act of 1987, if process is served
22 by a sheriff, coroner, or special investigator appointed by
23 the State's Attorney, the court may tax the fee of the sheriff,
24 coroner, or State's Attorney's special investigator as costs
25 in the proceeding. If process is served by a private person or
26 entity, the court may establish a fee therefor and tax such fee

1 as costs in the proceedings.

2 (e) In addition to the powers stated in Section 8.1a of the
3 Housing Authorities Act, in counties with a population of
4 3,000,000 or more inhabitants, members of a housing authority
5 police force may serve process for eviction actions commenced
6 by that housing authority and may execute eviction orders for
7 that housing authority.

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

15 (Source: P.A. 102-538, eff. 8-20-21; 103-379, eff. 7-28-23.)