



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5534

Introduced 2/9/2024, by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-9008.5 new

Amends the Counties Code. Provides that a State's Attorney may not represent the State in the charging and prosecution of law enforcement officer-involved shootings within the county in which the State's Attorney serves. Provides that the court, on its own motion, shall file a petition alleging that the State's Attorney has an actual conflict of interest in the proceeding and shall appoint a special prosecutor as provided in this Section. Provides that the court shall attempt to appoint a public prosecutor from a public agency, including, but not limited to, the Office of Attorney General, Office of the State's Attorneys Appellate Prosecutor, or another State's Attorney's office throughout the State. Includes provisions about the appointment of the special prosecutor and the special prosecutor's authority and fees.

LRB103 37802 AWJ 67932 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 adding Section
5 3-9008.5 as follows:

6 (55 ILCS 5/3-9008.5 new)

7 Sec. 3-9008.5. Prosecutions of law enforcement
8 officer-involved shootings.

9 (a) A State's Attorney may not represent the State in the
10 charging and prosecution of law enforcement officer-involved
11 shootings within the county in which the State's Attorney
12 serves. The court, on its own motion, shall file a petition
13 alleging that the State's Attorney has an actual conflict of
14 interest in the proceeding and shall appoint a special
15 prosecutor as provided in this Section.

16 (b) Prior to appointing a private attorney under this
17 Section, the court shall contact public agencies, including,
18 but not limited to, the Office of Attorney General, Office of
19 the State's Attorneys Appellate Prosecutor, or another State's
20 Attorney's office throughout the State, to determine if a
21 public prosecutor is available to serve as a special
22 prosecutor at no cost to the county. If a public prosecutor is
23 available, the court shall appoint the public prosecutor if

1 the individual is able and willing to accept the appointment
2 as special prosecutor. An attorney appointed under this
3 subsection shall have the same power and authority in relation
4 to the cause or proceeding as the State's Attorney would have
5 if present and attending to the cause or proceeding.

6 (c) An order granting authority to a special prosecutor
7 must be construed strictly and narrowly by the court. The
8 power and authority of a special prosecutor shall not be
9 expanded without prior notice to the county. In the case of the
10 proposed expansion of a special prosecutor's power and
11 authority, a county may provide the court with information on
12 the financial impact of an expansion on the county. Prior to
13 the signing of an order requiring a county to pay for
14 attorney's fees or litigation expenses, the county shall be
15 provided with a detailed copy of the invoice describing the
16 fees, and the invoice shall include all activities performed
17 in relation to the case and the amount of time spent on each
18 activity.