



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1460

by Rep. William Cunningham

SYNOPSIS AS INTRODUCED:

720 ILCS 5/32-5.2-6 new
735 ILCS 5/2-202

from Ch. 110, par. 2-202

Amends the Criminal Code of 1961. Creates the offense of false personation of a peace officer while serving process. Provides that a person commits the offense when he or she, not being a peace officer, knowingly wears a coat, hat, or other clothing while serving process that reasonably creates the impression that the person is a peace officer. Amends the Code of Civil Procedure. With respect to the requirement that a person who is a licensed or registered private detective or a registered employee of a private detective agency must supply the sheriff of any county in which the person serves process with a copy of the person's license or certificate, deletes language providing that the failure of a person to supply a copy of the license or certificate to the sheriff does not impair the validity of process served by the person. In a provision that allows a court to appoint a certified private detective agency as a special process server, deletes language allowing any employee of the private detective agency to serve the process under the appointment.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning process servers.

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

4 Section 5. The Criminal Code of 1961 is amended by adding
5 Section 32-5.2-6 as follows:

6 (720 ILCS 5/32-5.2-6 new)

7 Sec. 32-5.2-6. False personation of a peace officer while
8 serving process.

9 (a) A person commits false personation of a peace officer
10 while serving process when he or she, not being a peace
11 officer, knowingly wears a coat, hat, or other clothing while
12 serving process that reasonably creates the impression that the
13 person is a peace officer.

14 (b) Sentence. False personation of a peace officer while
15 serving process is a Class A misdemeanor.

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

18 (735 ILCS 5/2-202) (from Ch. 110, par. 2-202)

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

21 (a) Process shall be served by a sheriff, or if the sheriff

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

22 (a-5) Upon motion and in its discretion, the court may
23 appoint as a special process server a private detective agency
24 certified under the Private Detective, Private Alarm, Private
25 Security, Fingerprint Vendor, and Locksmith Act of 2004. ~~Under~~
26 ~~the appointment, any employee of the private detective agency~~

1 ~~who is registered under that Act may serve the process.~~ The
2 motion and the order of appointment must contain the number of
3 the certificate issued to the private detective agency by the
4 Department of Professional Regulation under the Private
5 Detective, Private Alarm, Private Security, Fingerprint
6 Vendor, and Locksmith Act of 2004.

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, the court

1 may tax the fee of the sheriff or coroner as costs in the
2 proceeding. If process is served by a private person or entity,
3 the court may establish a fee therefor and tax such fee as
4 costs in the proceedings.

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

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

19 (Source: P.A. 95-613, eff. 9-11-07; 96-1451, eff. 8-20-10.)