



Sen. Dale A. Righter

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09700SB1466sam001

LRB097 07011 RLC 54296 a

1 AMENDMENT TO SENATE BILL 1466

2 AMENDMENT NO. _____. Amend Senate Bill 1466 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is
5 amended by adding Article 108C as follows:

6 (725 ILCS 5/Art. 108C heading new)

7 ARTICLE 108C. STATE'S ATTORNEY'S INVESTIGATIVE SUBPOENAS

8 (725 ILCS 5/108C-1 new)

9 Sec. 108C-1. State's Attorney's investigative subpoenas.

10 In those counties without a sitting grand jury and at any time
11 prior to the commencement of a prosecution, upon written
12 application by the State's Attorney as provided in Section
13 108C-5, the circuit court shall cause the clerk of the court to
14 issue subpoenas duces tecum directed to the sheriff or coroner
15 of any county in this State for the purpose of obtaining any

1 document or material relevant to a criminal matter being
2 investigated by the State's Attorney. For the purposes of this
3 Article 108C, a prosecution is commenced upon the filing of a
4 complaint or information with the court or the return of a bill
5 of indictment.

6 (725 ILCS 5/108C-5 new)

7 Sec. 108C-5. Application by the State's Attorney. The
8 State's Attorney's application shall set forth the nature of
9 the matter he or she is investigating and the relevancy of the
10 documents or materials he or she is seeking to the
11 investigation and certify that the documents or materials
12 sought will be used solely in the exercise of the State's
13 Attorney's duty to investigate.

14 (725 ILCS 5/108C-10 new)

15 Sec. 108C-10. Return of subpoenaed materials. Materials
16 subpoenaed pursuant to this Article shall be returnable to the
17 circuit court for the purpose of an in camera inspection prior
18 to the delivery of the materials to the State's Attorney,
19 unless the court specifically finds that no issues of
20 relevance, privilege, or materiality precludes their return
21 directly to the State's Attorney. Rulings on relevance,
22 materiality, and privilege shall be governed by the rules
23 applicable to proceedings before the grand jury and not by the
24 rules of evidence applicable at trial.

1 (725 ILCS 5/108C-15 new)

2 Sec. 108C-15. Secrecy of subpoenas.

3 (a) No person, except as provided in this Section, may
4 disclose the existence of a subpoena issued or materials
5 obtained pursuant to this Article. Disclosure may be made to:

6 (1) a State's Attorney for use in such State's
7 Attorney's duty; and

8 (2) an attorney representing a person or other entity
9 subpoenaed; and

10 (3) such government personnel as are deemed necessary
11 by the State's Attorney in the performance of such State's
12 Attorney's duty to investigate criminal conduct and
13 enforce State criminal law.

14 (b) Any person to whom matters are disclosed under this
15 Section shall not use the subpoenaed material for any purpose
16 other than assisting the State's Attorney in the performance of
17 such State's Attorney's duty to investigate criminal conduct
18 and enforce the law. The State's Attorney shall promptly
19 provide the court with the names of the persons to whom such
20 disclosure has been made.

21 (c) Disclosure otherwise prohibited by this Section may
22 also be made when the court directs such in the interest of
23 justice.

24 (d) Any person who discloses, other than to his or her
25 attorney, matters occurring before the issuing court, other

1 than in accordance with the provisions of this Section, shall
2 be punished as a contempt of court, subject to proceedings in
3 accordance to law.

4 (e) Any investigative subpoena, documents, or other
5 materials obtained pursuant to this Article shall be
6 confidential and exempt from public inspection and copying, as
7 provided under Section 7 of the Freedom of Information Act, and
8 the information shall not be transmitted to anyone except as
9 needed to comply with this Article.

10 (725 ILCS 5/108C-20 new)

11 Sec. 108C-20. Record of proceedings. Any proceeding
12 related to the issuance or enforceability of a subpoena issued
13 pursuant to this Article, or to the disclosure of information
14 obtained from such subpoena, shall take place in camera and in
15 the presence of the State's Attorney, and at the party's
16 request, the party subpoenaed and his or her counsel, and a
17 court reporter who shall transcribe the proceedings. Except for
18 the State's Attorney's copy, such transcripts shall be sealed
19 and in the event a prosecution is commenced, the transcript
20 shall be disclosed to the accused as provided by law.

21 (725 ILCS 5/108C-25 new)

22 Sec. 108C-25. Duties of others. The clerk of the court
23 shall keep records of subpoenas issued pursuant to this Article
24 as may be prescribed by the Rules of the Supreme Court.

1 (725 ILCS 5/108C-30 new)

2 Sec. 108C-30. Destroyed documents or materials. When
3 documents or materials that are the subject of a subpoena
4 issued pursuant to this Article have been destroyed or
5 withheld, in addition to criminal prosecution, any person
6 responsible for such conduct shall be punished as a contempt of
7 court subject to proceedings in accordance with law.

8 (725 ILCS 5/108C-35 new)

9 Sec. 108C-35. "Person" defined. As used in this Article,
10 "person" means an individual, public or private corporation,
11 government or any subdivision of government, partnership, or
12 unincorporated association.

13 (725 ILCS 5/108C-40 new)

14 Sec. 108C-40. Training sessions. The Office of the State's
15 Attorneys Appellate Prosecutor, in cooperation with the
16 Illinois State's Attorney Association, shall regularly provide
17 a course of training to the State's Attorneys in the legal,
18 ethical, and practical aspects of the provisions of this
19 Article relating to investigation and prosecutorial functions.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."