



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0291

by Rep. Arthur Turner

SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-9005
55 ILCS 5/3-9008

from Ch. 34, par. 3-9005
from Ch. 34, par. 3-9008

Amend the Counties Code. Requires the State's Attorney to seek court appointment of a special prosecutor for all police officer-involved felonies. Defines "police officer-involved felony". Provides that the Illinois Supreme Court may make rules to guide courts in appointing special prosecutors for police officer-involved felonies. Effective immediately.

LRB099 04613 MRW 24642 b

1 AN ACT concerning 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
5 Sections 3-9005 and 3-9008 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) Except as otherwise provided in subsection (a-5) of
10 Section 3-9008 of this Code, to ~~To~~ commence and prosecute
11 all actions, suits, indictments and prosecutions, civil
12 and criminal, in the circuit court for his county, in which
13 the people of the State or county may be concerned.

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

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

1 capacity.

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

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

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

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

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

1 reasonable.

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

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

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

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

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

1 certificate holder must also be contemporaneously sent a
2 copy of the notice.

3 (b) The State's Attorney of each county shall have
4 authority to appoint one or more special investigators to serve
5 subpoenas, make return of process and conduct investigations
6 which assist the State's Attorney in the performance of his
7 duties. A special investigator shall not carry firearms except
8 with permission of the State's Attorney and only while carrying
9 appropriate identification indicating his employment and in
10 the performance of his assigned duties.

11 Subject to the qualifications set forth in this subsection,
12 special investigators shall be peace officers and shall have
13 all the powers possessed by investigators under the State's
14 Attorneys Appellate Prosecutor's Act.

15 No special investigator employed by the State's Attorney
16 shall have peace officer status or exercise police powers
17 unless he or she successfully completes the basic police
18 training course mandated and approved by the Illinois Law
19 Enforcement Training Standards Board or such board waives the
20 training requirement by reason of the special investigator's
21 prior law enforcement experience or training or both. Any
22 State's Attorney appointing a special investigator shall
23 consult with all affected local police agencies, to the extent
24 consistent with the public interest, if the special
25 investigator is assigned to areas within that agency's
26 jurisdiction.

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

14 (c) The State's Attorney may request and receive from
15 employers, labor unions, telephone companies, and utility
16 companies location information concerning putative fathers and
17 noncustodial parents for the purpose of establishing a child's
18 paternity or establishing, enforcing, or modifying a child
19 support obligation. In this subsection, "location information"
20 means information about (i) the physical whereabouts of a
21 putative father or noncustodial parent, (ii) the putative
22 father or noncustodial parent's employer, or (iii) the salary,
23 wages, and other compensation paid and the health insurance
24 coverage provided to the putative father or noncustodial parent
25 by the employer of the putative father or noncustodial parent
26 or by a labor union of which the putative father or

1 noncustodial parent is a member.

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

15 (e) The State's Attorney shall have the authority to enter
16 into a written agreement with the Department of Revenue for
17 pursuit of civil liability under subsection (E) of Section 17-1
18 of the Criminal Code of 2012 against persons who have issued to
19 the Department checks or other orders in violation of the
20 provisions of paragraph (1) of subsection (B) of Section 17-1
21 of the Criminal Code of 2012, with the Department to retain the
22 amount owing upon the dishonored check or order along with the
23 dishonored check fee imposed under the Uniform Penalty and
24 Interest Act, with the balance of damages, fees, and costs
25 collected under subsection (E) of Section 17-1 of the Criminal
26 Code of 2012 or under Section 17-1a of that Code to be retained

1 by the State's Attorney. The agreement shall not affect the
2 allocation of fines and costs imposed in any criminal
3 prosecution.

4 (Source: P.A. 96-431, eff. 8-13-09; 96-1551, eff. 7-1-11;
5 97-607, eff. 8-26-11; 97-1150, eff. 1-25-13.)

6 (55 ILCS 5/3-9008) (from Ch. 34, par. 3-9008)

7 Sec. 3-9008. Appointment of attorney to perform duties.

8 (a) Whenever the State's attorney is sick or absent, or
9 unable to attend, or is interested in any cause or proceeding,
10 civil or criminal, which it is or may be his duty to prosecute
11 or defend, the court in which said cause or proceeding is
12 pending may appoint some competent attorney to prosecute or
13 defend such cause or proceeding, and the attorney so appointed
14 shall have the same power and authority in relation to such
15 cause or proceeding as the State's attorney would have had if
16 present and attending to the same. Prior to appointing a
17 private attorney under this subsection (a), the court shall
18 contact public agencies, including but not limited to the
19 Office of Attorney General, Office of the State's Attorneys
20 Appellate Prosecutor, and local State's Attorney's Offices
21 throughout the State, to determine a public prosecutor's
22 availability to serve as a special prosecutor at no cost to the
23 county.

24 (a-5) In the case of a police officer-involved felony, the
25 State's Attorney must request the appointment of a special

1 prosecutor. For purposes of this subsection, "police
2 officer-involved felony" means any felony committed by a law
3 enforcement officer while the law enforcement officer is on
4 duty or while the law enforcement officer is off duty but
5 performing activities that are within the scope of his or her
6 law enforcement duties.

7 (b) In case of a vacancy of more than one year occurring in
8 any county in the office of State's attorney, by death,
9 resignation or otherwise, and it becomes necessary for the
10 transaction of the public business, that some competent
11 attorney act as State's attorney in and for such county during
12 the period between the time of the occurrence of such vacancy
13 and the election and qualification of a State's attorney, as
14 provided by law, the vacancy shall be filled upon the written
15 request of a majority of the circuit judges of the circuit in
16 which is located the county where such vacancy exists, by
17 appointment as provided in The Election Code of some competent
18 attorney to perform and discharge all the duties of a State's
19 attorney in the said county, such appointment and all authority
20 thereunder to cease upon the election and qualification of a
21 State's attorney, as provided by law. Any attorney appointed
22 for any reason under this Section shall possess all the powers
23 and discharge all the duties of a regularly elected State's
24 attorney under the laws of the State to the extent necessary to
25 fulfill the purpose of such appointment, and shall be paid by
26 the county he serves not to exceed in any one period of 12

1 months, for the reasonable amount of time actually expended in
2 carrying out the purpose of such appointment, the same
3 compensation as provided by law for the State's attorney of the
4 county, apportioned, in the case of lesser amounts of
5 compensation, as to the time of service reasonably and actually
6 expended. The county shall participate in all agreements on the
7 rate of compensation of a special prosecutor.

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

20 (d) The Supreme Court may adopt such rules as it may deem
21 necessary and expedient to guide the court in appointing a
22 special prosecutor under subsection (a-5) of this Section.

23 (Source: P.A. 97-982, eff. 8-17-12.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.