



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB4040

Introduced 1/13/2020, by Rep. Sue Scherer

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-9005 from Ch. 34, par. 3-9005  
705 ILCS 405/2-35 new  
750 ILCS 5/603.9 new  
750 ILCS 46/808.1 new  
755 ILCS 5/11-7.2 new

Amends the Juvenile Court Act of 1987, the Illinois Marriage and Dissolution of Marriage Act, the Illinois Parentage Act of 2015, and the Probate Act of 1975. Provides that a State's Attorney, within 5 days of the filing of a charge that a person has committed an illegal act perpetrated upon a victim less than 18 years of age, including, but not limited to, certain violations the Articles of the Criminal Code of 2012 concerning sex offenses and bodily harm, shall determine whether the person or his or her minor child is a party or subject to a proceeding under the applicable Act. Provides that if the person or his or her minor child is a party or subject to such a proceeding, the State's Attorney shall notify the court having jurisdiction over the matter. Provides that the notification shall be in a form and manner as determined by the clerk of the court, and shall include the case number and caption, if known. Provides that if a notification expressly indicates that it includes facts that constitute confidential personnel matters, the clerk of the court shall place the notification under seal. Provides that upon the receipt of a notification, the clerk of the court shall schedule the matter related to the notification for a hearing no later than 30 days after the receipt of the notification, and shall send no less than 10 days' notice of the hearing to each party to the proceeding. Provides that after the hearing, the court shall make a written finding whether modification or restriction of the person's access to the child is appropriate. Provides that the court may enter any order that it deems appropriate, including, but not limited to, a requirement that visitation be conducted under the supervision of an employee of the Department of Children and Family Services. Makes a corresponding change in the Counties Code.

LRB101 15183 LNS 64907 b

1 AN ACT concerning children.

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 Section  
5 3-9005 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) To commence and prosecute all actions, suits,  
10 indictments and prosecutions, civil and criminal, in the  
11 circuit court for his county, in which the people of the  
12 State or county may be concerned.

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

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

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

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

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

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

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

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

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

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

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

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

1 copy of the notice.

2 (14) To send notifications as required by Section 2-35  
3 of the Juvenile Court Act of 1987, Section 603.9 of the  
4 Illinois Marriage and Dissolution of Marriage Act, Section  
5 808.1 of the Illinois Parentage Act of 2015, and Section  
6 11-7.2 of the Probate Act of 1975.

7 (b) The State's Attorney of each county shall have  
8 authority to appoint one or more special investigators to serve  
9 subpoenas and summonses, make return of process, and conduct  
10 investigations which assist the State's Attorney in the  
11 performance of his duties. In counties of the first and second  
12 class, the fees for service of subpoenas and summonses are  
13 allowed by this Section and shall be consistent with those set  
14 forth in Section 4-5001 of this Act, except when increased by  
15 county ordinance as provided for in Section 4-5001. In counties  
16 of the third class, the fees for service of subpoenas and  
17 summonses are allowed by this Section and shall be consistent  
18 with those set forth in Section 4-12001 of this Act. A special  
19 investigator shall not carry firearms except with permission of  
20 the State's Attorney and only while carrying appropriate  
21 identification indicating his employment and in the  
22 performance of his assigned duties.

23 Subject to the qualifications set forth in this subsection,  
24 special investigators shall be peace officers and shall have  
25 all the powers possessed by investigators under the State's  
26 Attorneys Appellate Prosecutor's Act.

1           No special investigator employed by the State's Attorney  
2 shall have peace officer status or exercise police powers  
3 unless he or she successfully completes the basic police  
4 training course mandated and approved by the Illinois Law  
5 Enforcement Training Standards Board or such board waives the  
6 training requirement by reason of the special investigator's  
7 prior law enforcement experience or training or both. Any  
8 State's Attorney appointing a special investigator shall  
9 consult with all affected local police agencies, to the extent  
10 consistent with the public interest, if the special  
11 investigator is assigned to areas within that agency's  
12 jurisdiction.

13           Before a person is appointed as a special investigator, his  
14 fingerprints shall be taken and transmitted to the Department  
15 of State Police. The Department shall examine its records and  
16 submit to the State's Attorney of the county in which the  
17 investigator seeks appointment any conviction information  
18 concerning the person on file with the Department. No person  
19 shall be appointed as a special investigator if he has been  
20 convicted of a felony or other offense involving moral  
21 turpitude. A special investigator shall be paid a salary and be  
22 reimbursed for actual expenses incurred in performing his  
23 assigned duties. The county board shall approve the salary and  
24 actual expenses and appropriate the salary and expenses in the  
25 manner prescribed by law or ordinance.

26           (c) The State's Attorney may request and receive from

1 employers, labor unions, telephone companies, and utility  
2 companies location information concerning putative fathers and  
3 noncustodial parents for the purpose of establishing a child's  
4 paternity or establishing, enforcing, or modifying a child  
5 support obligation. In this subsection, "location information"  
6 means information about (i) the physical whereabouts of a  
7 putative father or noncustodial parent, (ii) the putative  
8 father or noncustodial parent's employer, or (iii) the salary,  
9 wages, and other compensation paid and the health insurance  
10 coverage provided to the putative father or noncustodial parent  
11 by the employer of the putative father or noncustodial parent  
12 or by a labor union of which the putative father or  
13 noncustodial parent is a member.

14 (d) (Blank).

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. 101-275, eff. 8-9-19.)

5 Section 10. The Juvenile Court Act of 1987 is amended by  
6 adding Section 2-35 as follows:

7 (705 ILCS 405/2-35 new)

8 Sec. 2-35. Criminal allegations affecting safety of minor  
9 child.

10 (a) A State's Attorney, upon the filing of a charge that a  
11 person has committed an illegal act perpetrated upon a victim  
12 less than 18 years of age, including, but not limited to, a  
13 violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or  
14 11-1.60 of the Criminal Code of 2012, shall determine whether  
15 the person or his or her minor child is a party or subject to a  
16 proceeding under this Article. If the person or his or her  
17 minor child is a party or subject to such a proceeding, the  
18 State's Attorney shall notify the court having jurisdiction  
19 over the matter. The State's Attorney shall send the  
20 notification no later than 5 days after the filing of the  
21 charge.

22 (b) The notification required by this Section shall be in a  
23 form and manner as determined by the clerk of the court, and  
24 shall include the case number and caption of the relevant



1 proceeding under this Article, if known. If a notification  
2 under this Section expressly indicates that it includes facts  
3 that constitute confidential personnel matters, the clerk of  
4 the court shall place the notification under seal.

5 (c) Upon the receipt of a notification under this Section,  
6 the clerk of the court shall schedule the matter related to the  
7 notification for a hearing no later than 30 days after the  
8 receipt of the notification, and shall send no less than 10  
9 days' notice of the hearing to each party to the proceeding.  
10 After the hearing, the court shall make a written finding  
11 whether modification or restriction of the person's access to  
12 the child is appropriate, taking into consideration the factors  
13 required by this Article. The court may enter any order that it  
14 deems appropriate, including, but not limited to, a requirement  
15 that visitation be conducted under the supervision of an  
16 employee of the Department of Children and Family Services.

17 Section 15. The Illinois Marriage and Dissolution of  
18 Marriage Act is amended by adding Section 603.9 as follows:

19 (750 ILCS 5/603.9 new)

20 Sec. 603.9. Criminal allegations affecting safety of minor  
21 child.

22 (a) A State's Attorney, upon the filing of a charge that a  
23 person has committed an illegal act perpetrated upon a victim  
24 less than 18 years of age, including, but not limited to, a

1 violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or  
2 11-1.60 of the Criminal Code of 2012, shall determine whether  
3 the person or his or her minor child is a party or subject to a  
4 proceeding under this Act. If the person or his or her minor  
5 child is a party or subject to such a proceeding, the State's  
6 Attorney shall notify the court having jurisdiction over the  
7 matter. The State's Attorney shall send the notification no  
8 later than 5 days after the filing of the charge.

9 (b) The notification required by this Section shall be in a  
10 form and manner as determined by the clerk of the court, and  
11 shall include the case number and caption of the relevant  
12 proceeding under this Article, if known. If a notification  
13 under this Section expressly indicates that it includes facts  
14 that constitute confidential personnel matters, the clerk of  
15 the court shall place the notification under seal.

16 (c) Upon the receipt of a notification under this Section,  
17 the clerk of the court shall schedule the matter related to the  
18 notification for a hearing no later than 30 days after the  
19 receipt of the notification, and shall send no less than 10  
20 days' notice of the hearing to each party to the proceeding.  
21 After the hearing, the court shall make a written finding  
22 whether modification or restriction of the person's access to  
23 the child is appropriate, taking into consideration the factors  
24 required by this Act. The court may enter any order that it  
25 deems appropriate, including, but not limited to, a requirement  
26 that visitation be conducted under the supervision of an

1 employee of the Department of Children and Family Services.

2 Section 20. The Illinois Parentage Act of 2015 is amended  
3 by adding Section 808.1 as follows:

4 (750 ILCS 46/808.1 new)

5 Sec. 808.1. Criminal allegations affecting safety of minor  
6 child.

7 (a) A State's Attorney, upon the filing of a charge that a  
8 person has committed an illegal act perpetrated upon a victim  
9 less than 18 years of age, including, but not limited to, a  
10 violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or  
11 11-1.60 of the Criminal Code of 2012, shall determine whether  
12 the person or his or her minor child is a party or subject to a  
13 proceeding under this Act. If the person or his or her minor  
14 child is a party or subject to such a proceeding, the State's  
15 Attorney shall notify the court having jurisdiction over the  
16 matter. The State's Attorney shall send the notification no  
17 later than 5 days after the filing of the charge.

18 (b) The notification required by this Section shall be in a  
19 form and manner as determined by the clerk of the court, and  
20 shall include the case number and caption of the relevant  
21 proceeding under this Article, if known. If a notification  
22 under this Section expressly indicates that it includes facts  
23 that constitute confidential personnel matters, the clerk of  
24 the court shall place the notification under seal.

1       (c) Upon the receipt of a notification under this Section,  
2 the clerk of the court shall schedule the matter related to the  
3 notification for a hearing no later than 30 days after the  
4 receipt of the notification, and shall send no less than 10  
5 days' notice of the hearing to each party to the proceeding.  
6 After the hearing, the court shall make a written finding  
7 whether modification or restriction of the person's access to  
8 the child is appropriate, taking into consideration the factors  
9 required by this Act. The court may enter any order that it  
10 deems appropriate, including, but not limited to, a requirement  
11 that visitation be conducted under the supervision of an  
12 employee of the Department of Children and Family Services.

13       Section 25. The Probate Act of 1975 is amended by adding  
14 Section 11-7.2 as follows:

15       (755 ILCS 5/11-7.2 new)

16       Sec. 11-7.2. Criminal allegations affecting safety of  
17 minor child.

18       (a) A State's Attorney, upon the filing of a charge that a  
19 person has committed an illegal act perpetrated upon a victim  
20 less than 18 years of age, including, but not limited to, a  
21 violation of Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, or  
22 11-1.60 of the Criminal Code of 2012, shall determine whether  
23 the person or his or her minor child is a party or subject to a  
24 proceeding under this Article. If the person or his or her

1 minor child is a party or subject to such a proceeding, the  
2 State's Attorney shall notify the court having jurisdiction  
3 over the matter. The State's Attorney shall send the  
4 notification no later than 5 days after the filing of the  
5 charge.

6 (b) The notification required by this Section shall be in a  
7 form and manner as determined by the clerk of the court, and  
8 shall include the case number and caption of the relevant  
9 proceeding under this Article, if known. If a notification  
10 under this Section expressly indicates that it includes facts  
11 that constitute confidential personnel matters, the clerk of  
12 the court shall place the notification under seal.

13 (c) Upon the receipt of a notification under this Section,  
14 the clerk of the court shall schedule the matter related to the  
15 notification for a hearing no later than 30 days after the  
16 receipt of the notification, and shall send no less than 10  
17 days' notice of the hearing to each party to the proceeding.  
18 After the hearing, the court shall make a written finding  
19 whether modification or restriction of the person's access to  
20 the child is appropriate, taking into consideration the factors  
21 required by this Article. The court may enter any order that it  
22 deems appropriate, including, but not limited to, a requirement  
23 that visitation be conducted under the supervision of an  
24 employee of the Department of Children and Family Services.