



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4528

Introduced 2/5/2020, by Rep. Natalie A. Manley

SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-9001	from Ch. 34, par. 3-9001
55 ILCS 5/3-9002	from Ch. 34, par. 3-9002
55 ILCS 5/3-9004	from Ch. 34, par. 3-9004
55 ILCS 5/3-9005	from Ch. 34, par. 3-9005
55 ILCS 5/3-9006	from Ch. 34, par. 3-9006
55 ILCS 5/3-9008	from Ch. 34, par. 3-9008
55 ILCS 5/3-9009	from Ch. 34, par. 3-9009
55 ILCS 5/3-9012	from Ch. 34, par. 3-9012

Amends the State's Attorney Division of the Counties Code. Provides that, in a county with less than 2,000,000 inhabitants, the State's Attorney may give an opinion, without fee or reward, upon any question of law relating to a County Veterans Assistance Commission. Provides that a County Veterans Assistance Commission may make such a request of the State's Attorney, and the State's Attorney, in the State's Attorney's sole discretion, may grant or decline such a request by a County Veterans Assistance Commission. Makes all provisions of the Division gender neutral. Effective immediately.

LRB101 15668 AWJ 65017 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 changing
5 Sections 3-9001, 3-9002, 3-9004, 3-9005, 3-9006, 3-9008,
6 3-9009, and 3-9012 as follows:

7 (55 ILCS 5/3-9001) (from Ch. 34, par. 3-9001)

8 Sec. 3-9001. Oath; bond. Before entering upon the
9 respective duties of their office, the state's attorneys shall
10 each be commissioned by the governor, and shall take the
11 following oath or affirmation:

12 I do solemnly swear (or affirm, as the case may be), that I
13 will support the constitution of the United States and the
14 constitution of the state of Illinois, and that I will
15 faithfully discharge the duties of the office of state's
16 attorney according to the best of my ability.

17 Each State's attorney shall also execute a bond, to the
18 People of the State of Illinois, (or, if the county is
19 self-insured, the county through its self-insurance program
20 may provide bonding) with good and sufficient securities in the
21 penal sum of \$5,000, to be approved by the circuit court for
22 the ~~his~~ respective county, which approval shall be indorsed
23 upon the bond. The bond, with the approval thereof indorsed,

1 shall be entered of record in the circuit court, and then
2 forwarded by the county clerk to the secretary of state, to be
3 filed in the Secretary of State's ~~his~~ office. Each of the bonds
4 shall be conditioned upon the faithful discharge of the duties
5 of the office, and the paying over all moneys as provided by
6 law, which bond shall run to and be for the benefit of the
7 state, county, corporation or person injured by a breach of any
8 of the conditions thereof.

9 (Source: P.A. 88-387.)

10 (55 ILCS 5/3-9002) (from Ch. 34, par. 3-9002)

11 Sec. 3-9002. Commencement of duties. The State's attorney
12 shall enter upon the duties of the ~~his~~ office on the first day
13 in the month of December following the ~~his~~ election of the
14 State's Attorney on which the State's attorney's office is
15 required, by statute or by action of the county board, to be
16 open.

17 (Source: P.A. 86-962.)

18 (55 ILCS 5/3-9004) (from Ch. 34, par. 3-9004)

19 Sec. 3-9004. Failure to give bond or take oath. If any
20 person elected to the office of State's attorney shall fail to
21 give bond, or take the oath required of the State's Attorney
22 ~~him~~, within twenty days after the person ~~he~~ is declared
23 elected, the office shall be deemed vacant, and if, being
24 required to give additional bond, as provided in Section 3-9003

1 hereof, the person ~~he~~ fails to do so within twenty days after
2 notice of such requirements, the State's Attorney ~~his~~ office
3 may, in the discretion of the governor, be declared vacant and
4 filled as provided by law.

5 (Source: P.A. 86-962.)

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 the ~~his~~ county, in which the people of
12 the 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 the ~~his~~ county, or to
17 any school district or road district in the ~~his~~ county;
18 also, to prosecute all suits in the ~~his~~ county against
19 railroad or transportation companies, which may be
20 prosecuted in the name of the People of the State of
21 Illinois.

22 (3) To commence and prosecute all actions and
23 proceedings brought by any county officer in the State's
24 Attorney's ~~his~~ official capacity.

25 (4) To defend all actions and proceedings brought

1 against the ~~his~~ county, or against any county or State
2 officer, in the State's Attorney's ~~his~~ official capacity,
3 within the ~~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 the ~~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 the State's Attorney's ~~his~~ power so to do.

11 (7) To give the State's Attorney's ~~his~~ opinion, without
12 fee or reward, to any county officer in the ~~his~~ county,
13 upon any question or law relating to any criminal or other
14 matter, in which the 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 the ~~his~~ county to
17 the Supreme Court, to which it is the duty of the Attorney
18 General to attend, the State's Attorney ~~he~~ shall furnish
19 the Attorney General at least 10 days before such is due to
20 be filed, a manuscript of a proposed statement, brief and
21 argument to be printed and filed on behalf of the people,
22 prepared in accordance with the rules of the Supreme Court.
23 However, if such brief, argument or other document is due
24 to be filed by law or order of court within this 10-day
25 period, then the State's Attorney shall furnish such as
26 soon as may be reasonable.

1 (9) To pay all moneys received by the State's Attorney
2 ~~him~~ in trust, without delay, to the officer who by law is
3 entitled to the custody 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 the State's Attorney ~~him~~
9 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 and summonses, make return of process, and conduct
6 investigations which assist the State's Attorney in the
7 performance of the State's Attorney ~~his~~ duties. In counties of
8 the first and second class, the fees for service of subpoenas
9 and summonses are allowed by this Section and shall be
10 consistent with those set forth in Section 4-5001 of this Act,
11 except when increased by county ordinance as provided for in
12 Section 4-5001. In counties of the third class, the fees for
13 service of subpoenas and summonses are allowed by this Section
14 and shall be consistent with those set forth in Section 4-12001
15 of this Act. A special investigator shall not carry firearms
16 except with permission of the State's Attorney and only while
17 carrying appropriate identification indicating the special
18 investigator's ~~his~~ employment and in the performance of the
19 special investigator's ~~his~~ assigned duties.

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

24 No special investigator employed by the State's Attorney
25 shall have peace officer status or exercise police powers
26 unless the special investigator ~~he or she~~ successfully

1 completes the basic police training course mandated and
2 approved by the Illinois Law Enforcement Training Standards
3 Board or such board waives the training requirement by reason
4 of the special investigator's prior law enforcement experience
5 or training or both. Any State's Attorney appointing a special
6 investigator shall consult with all affected local police
7 agencies, to the extent consistent with the public interest, if
8 the special investigator is assigned to areas within that
9 agency's jurisdiction.

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

24 (c) The State's Attorney may request and receive from
25 employers, labor unions, telephone companies, and utility
26 companies location information concerning putative fathers and

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

12 (d) (Blank).

13 (e) The State's Attorney shall have the authority to enter
14 into a written agreement with the Department of Revenue for
15 pursuit of civil liability under subsection (E) of Section 17-1
16 of the Criminal Code of 2012 against persons who have issued to
17 the Department checks or other orders in violation of the
18 provisions of paragraph (1) of subsection (B) of Section 17-1
19 of the Criminal Code of 2012, with the Department to retain the
20 amount owing upon the dishonored check or order along with the
21 dishonored check fee imposed under the Uniform Penalty and
22 Interest Act, with the balance of damages, fees, and costs
23 collected under subsection (E) of Section 17-1 of the Criminal
24 Code of 2012 or under Section 17-1a of that Code to be retained
25 by the State's Attorney. The agreement shall not affect the
26 allocation of fines and costs imposed in any criminal

1 prosecution.

2 (f) In a county with less than 2,000,000 inhabitants, the
3 State's Attorney may give an opinion, without fee or reward,
4 upon any question of law relating to a County Veterans
5 Assistance Commission. A County Veterans Assistance Commission
6 may make such a request of the State's Attorney, and the
7 State's Attorney, in the State's Attorney's sole discretion,
8 may grant or decline such a request by a County Veterans
9 Assistance Commission.

10 (Source: P.A. 101-275, eff. 8-9-19.)

11 (55 ILCS 5/3-9006) (from Ch. 34, par. 3-9006)

12 Sec. 3-9006. Internal operations of office; simultaneous
13 county board tenure.

14 (a) Internal operations of the office. The State's Attorney
15 shall control the internal operations of the State's Attorney's
16 ~~his or her~~ office and procure the necessary equipment,
17 materials, and services to perform the duties of that office.

18 (b) Simultaneous county board tenure. A duly appointed
19 Assistant State's Attorney may serve as an Assistant State's
20 Attorney and, simultaneously, serve as a county board member
21 for a county located outside of the jurisdiction of the State's
22 Attorney Office that the Assistant State's Attorney ~~he or she~~
23 serves. An Assistant State's Attorney serving as a county board
24 member is subject to any internal mechanisms established by the
25 State's Attorney to avoid conflicts of interest in the

1 performance of the individual's ~~his or her~~ duties as an
2 Assistant State's Attorney.

3 (Source: P.A. 95-1014, eff. 12-15-08.)

4 (55 ILCS 5/3-9008) (from Ch. 34, par. 3-9008)

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

6 (a) (Blank).

7 (a-5) The court on its own motion, or an interested person
8 in a cause or proceeding, civil or criminal, may file a
9 petition alleging that the State's Attorney is sick, absent, or
10 unable to fulfill the State's Attorney's ~~his or her~~ duties. The
11 court shall consider the petition, any documents filed in
12 response, and if necessary, grant a hearing to determine
13 whether the State's Attorney is sick, absent, or otherwise
14 unable to fulfill the State's Attorney's ~~his or her~~ duties. If
15 the court finds that the State's Attorney is sick, absent, or
16 otherwise unable to fulfill the State's Attorney's ~~his or her~~
17 duties, the court may appoint some competent attorney to
18 prosecute or defend the cause or proceeding.

19 (a-10) The court on its own motion, or an interested person
20 in a cause or proceeding, civil or criminal, may file a
21 petition alleging that the State's Attorney has an actual
22 conflict of interest in the cause or proceeding. The court
23 shall consider the petition, any documents filed in response,
24 and if necessary, grant a hearing to determine whether the
25 State's Attorney has an actual conflict of interest in the

1 cause or proceeding. If the court finds that the petitioner has
2 proven by sufficient facts and evidence that the State's
3 Attorney has an actual conflict of interest in a specific case,
4 the court may appoint some competent attorney to prosecute or
5 defend the cause or proceeding.

6 (a-15) Notwithstanding subsections (a-5) and (a-10) of
7 this Section, the State's Attorney may file a petition to
8 recuse the State's Attorney ~~himself or herself~~ from a cause or
9 proceeding for any other reason the State's Attorney ~~he or she~~
10 deems appropriate and the court shall appoint a special
11 prosecutor as provided in this Section.

12 (a-20) Prior to appointing a private attorney under this
13 Section, the court shall contact public agencies, including,
14 but not limited to, the Office of Attorney General, Office of
15 the State's Attorneys Appellate Prosecutor, or local State's
16 Attorney's Offices throughout the State, to determine a public
17 prosecutor's availability to serve as a special prosecutor at
18 no cost to the county and shall appoint a public agency if they
19 are able and willing to accept the appointment. An attorney so
20 appointed shall have the same power and authority in relation
21 to the cause or proceeding as the State's Attorney would have
22 if present and attending to the cause or proceedings.

23 (b) In case of a vacancy of more than one year occurring in
24 any county in the office of State's attorney, by death,
25 resignation or otherwise, and it becomes necessary for the
26 transaction of the public business, that some competent

1 attorney act as State's attorney in and for such county during
2 the period between the time of the occurrence of such vacancy
3 and the election and qualification of a State's attorney, as
4 provided by law, the vacancy shall be filled upon the written
5 request of a majority of the circuit judges of the circuit in
6 which is located the county where such vacancy exists, by
7 appointment as provided in The Election Code of some competent
8 attorney to perform and discharge all the duties of a State's
9 attorney in the said county, such appointment and all authority
10 thereunder to cease upon the election and qualification of a
11 State's attorney, as provided by law. Any attorney appointed
12 for any reason under this Section shall possess all the powers
13 and discharge all the duties of a regularly elected State's
14 attorney under the laws of the State to the extent necessary to
15 fulfill the purpose of such appointment, and shall be paid by
16 the county the State's Attorney ~~he~~ serves not to exceed in any
17 one period of 12 months, for the reasonable amount of time
18 actually expended in carrying out the purpose of such
19 appointment, the same compensation as provided by law for the
20 State's attorney of the county, apportioned, in the case of
21 lesser amounts of compensation, as to the time of service
22 reasonably and actually expended. The county shall participate
23 in all agreements on the rate of compensation of a special
24 prosecutor.

25 (c) An order granting authority to a special prosecutor
26 must be construed strictly and narrowly by the court. The power

1 and authority of a special prosecutor shall not be expanded
2 without prior notice to the county. In the case of the proposed
3 expansion of a special prosecutor's power and authority, a
4 county may provide the court with information on the financial
5 impact of an expansion on the county. Prior to the signing of
6 an order requiring a county to pay for attorney's fees or
7 litigation expenses, the county shall be provided with a
8 detailed copy of the invoice describing the fees, and the
9 invoice shall include all activities performed in relation to
10 the case and the amount of time spent on each activity.

11 (Source: P.A. 99-352, eff. 1-1-16.)

12 (55 ILCS 5/3-9009) (from Ch. 34, par. 3-9009)

13 Sec. 3-9009. Private fee and employment prohibited. The
14 State's attorney shall not receive any fee or reward from or in
15 behalf of any private person for any services within the
16 State's Attorney's ~~his~~ official duties and shall not be
17 retained or employed, except for the public, in a civil case
18 depending upon the same state of facts on which a criminal
19 prosecution shall depend.

20 (Source: P.A. 86-962.)

21 (55 ILCS 5/3-9012) (from Ch. 34, par. 3-9012)

22 Sec. 3-9012. Compensation. A State's attorney who serves 2
23 or more counties shall receive such compensation from the State
24 Treasury as is provided by law for the State's attorney of a

1 single county. The State's Attorney ~~He~~ shall be paid by the
2 counties such compensation as may be agreed upon by the county
3 boards within the salary range prescribed by law applicable to
4 a single county with a population equal to the combined
5 population of the counties the State's Attorney ~~he~~ serves.
6 Unless the county boards agree upon a lesser amount, the
7 State's Attorney ~~he~~ shall be paid the highest permissible
8 salary within such range. The amount to be paid by the counties
9 shall be apportioned among them on the basis of their
10 population. Seventy-five percent (75%) of the amount provided
11 by law to be paid from the State treasury for the services of
12 the State's attorney in the case of a single county is payable
13 to each of the counties served by the same State's attorney,
14 except that the amounts paid to those counties under this
15 Section in any year may not exceed, in the aggregate, the
16 annual salary paid to that State's attorney from both county
17 and State funds, in which case reduction of the State's
18 contribution to each county shall be reduced proportionately
19 according to population of each participating county.

20 (Source: P.A. 86-962.)

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