



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

#### HB0282

Introduced 1/29/2021, 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.

LRB102 09919 AWJ 15237 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  
21 the penal sum of \$5,000, to be approved by the circuit court  
22 for the ~~his~~ respective county, which approval shall be  
23 indorsed upon the bond. The bond, with the approval thereof

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

1 3-9003 hereof, the person ~~he~~ fails to do so within twenty days  
2 after notice of such requirements, the State's Attorney ~~his~~  
3 office may, in the discretion of the governor, be declared  
4 vacant and 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,  
12          without fee or reward, to any county officer in the ~~his~~  
13          county, upon any question or law relating to any criminal  
14          or other matter, in which the people or the county may be  
15          concerned.

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

1 such as soon as may be reasonable.

2 (9) To pay all moneys received by the State's Attorney  
3 ~~him~~ in trust, without delay, to the officer who by law is  
4 entitled to the custody 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 the State's Attorney ~~him~~  
10 by law.

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

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

1 location of the court where the conviction occurred. The  
2 certificate holder must also be contemporaneously sent a  
3 copy of the notice.

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

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

25 No special investigator employed by the State's Attorney  
26 shall have peace officer status or exercise police powers

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

11 Before a person is appointed as a special investigator,  
12 the person's ~~his~~ fingerprints shall be taken and transmitted  
13 to the Department of State Police. The Department shall  
14 examine its records and submit to the State's Attorney of the  
15 county in which the investigator seeks appointment any  
16 conviction information concerning the person on file with the  
17 Department. No person shall be appointed as a special  
18 investigator if the person ~~he~~ has been convicted of a felony or  
19 other offense involving moral turpitude. A special  
20 investigator shall be paid a salary and be reimbursed for  
21 actual expenses incurred in performing the special  
22 investigator's ~~his~~ assigned duties. The county board shall  
23 approve the salary and actual expenses and appropriate the  
24 salary and expenses in the manner prescribed by law or  
25 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  
11 parent by the employer of the putative father or noncustodial  
12 parent 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  
18 17-1 of the Criminal Code of 2012 against persons who have  
19 issued to the Department checks or other orders in violation  
20 of the provisions of paragraph (1) of subsection (B) of  
21 Section 17-1 of the Criminal Code of 2012, with the Department  
22 to retain the amount owing upon the dishonored check or order  
23 along with the dishonored check fee imposed under the Uniform  
24 Penalty and Interest Act, with the balance of damages, fees,  
25 and costs collected under subsection (E) of Section 17-1 of  
26 the Criminal Code of 2012 or under Section 17-1a of that Code

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

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

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

13 (55 ILCS 5/3-9006) (from Ch. 34, par. 3-9006)

14 Sec. 3-9006. Internal operations of office; simultaneous  
15 county board tenure.

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

21 (b) Simultaneous county board tenure. A duly appointed  
22 Assistant State's Attorney may serve as an Assistant State's  
23 Attorney and, simultaneously, serve as a county board member  
24 for a county located outside of the jurisdiction of the  
25 State's Attorney Office that the Assistant State's Attorney ~~he~~

1 ~~or she~~ serves. An Assistant State's Attorney serving as a  
2 county board member is subject to any internal mechanisms  
3 established by the State's Attorney to avoid conflicts of  
4 interest in the performance of the individual's ~~his or her~~  
5 duties as an Assistant State's Attorney.

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

7 (55 ILCS 5/3-9008) (from Ch. 34, par. 3-9008)

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

9 (a) (Blank).

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

22 (a-10) The court on its own motion, or an interested  
23 person in a cause or proceeding, civil or criminal, may file a  
24 petition alleging that the State's Attorney has an actual  
25 conflict of interest in the cause or proceeding. The court

1 shall consider the petition, any documents filed in response,  
2 and if necessary, grant a hearing to determine whether the  
3 State's Attorney has an actual conflict of interest in the  
4 cause or proceeding. If the court finds that the petitioner  
5 has proven by sufficient facts and evidence that the State's  
6 Attorney has an actual conflict of interest in a specific  
7 case, the court may appoint some competent attorney to  
8 prosecute or defend the cause or proceeding.

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

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

26 (b) In case of a vacancy of more than one year occurring in

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

1 agreements on the rate of compensation of a special  
2 prosecutor.

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

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

17 (55 ILCS 5/3-9009) (from Ch. 34, par. 3-9009)

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

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

1 (55 ILCS 5/3-9012) (from Ch. 34, par. 3-9012)

2 Sec. 3-9012. Compensation. A State's attorney who serves 2  
3 or more counties shall receive such compensation from the  
4 State Treasury as is provided by law for the State's attorney  
5 of a single county. The State's Attorney ~~He~~ shall be paid by  
6 the counties such compensation as may be agreed upon by the  
7 county boards within the salary range prescribed by law  
8 applicable to a single county with a population equal to the  
9 combined population of the counties the State's Attorney ~~he~~  
10 serves. Unless the county boards agree upon a lesser amount,  
11 the State's Attorney ~~he~~ shall be paid the highest permissible  
12 salary within such range. The amount to be paid by the counties  
13 shall be apportioned among them on the basis of their  
14 population. Seventy-five percent (75%) of the amount provided  
15 by law to be paid from the State treasury for the services of  
16 the State's attorney in the case of a single county is payable  
17 to each of the counties served by the same State's attorney,  
18 except that the amounts paid to those counties under this  
19 Section in any year may not exceed, in the aggregate, the  
20 annual salary paid to that State's attorney from both county  
21 and State funds, in which case reduction of the State's  
22 contribution to each county shall be reduced proportionately  
23 according to population of each participating county.

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

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.