

SB1837



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1837

Introduced 2/26/2021, by Sen. Omar Aquino

SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-4006

from Ch. 34, par. 3-4006

Amends the Counties Code. Provides that, in counties with a population over 3,000,000, the public defender, without fee or appointment and with the concurrence of the county board, may act as attorney to noncitizens in immigration cases. Provides that representation by the public defender in immigration cases shall be limited to those arising in immigration courts located within the geographical boundaries of the county where the public defender has been appointed to office unless the board authorizes the public defender to provide representation outside the county.

LRB102 14599 AWJ 19952 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 Section 3-4006 as follows:

6 (55 ILCS 5/3-4006) (from Ch. 34, par. 3-4006)

7 Sec. 3-4006. Duties of public defender. The Public
8 Defender, as directed by the court, shall act as attorney,
9 without fee, before any court within any county for all
10 persons who are held in custody or who are charged with the
11 commission of any criminal offense, and who the court finds
12 are unable to employ counsel.

13 The Public Defender shall be the attorney, without fee,
14 when so appointed by the court under Section 1-20 of the
15 Juvenile Court Act or Section 1-5 of the Juvenile Court Act of
16 1987 or by any court under Section 5(b) of the Parental Notice
17 of Abortion Act of 1983 for any party who the court finds is
18 financially unable to employ counsel.

19 In cases subject to Section 5-170 of the Juvenile Court
20 Act of 1987 involving a minor who was under 15 years of age at
21 the time of the commission of the offense, that occurs in a
22 county with a full-time public defender office, a public
23 defender, without fee or appointment, may represent and have

1 access to a minor during a custodial interrogation. In cases
2 subject to Section 5-170 of the Juvenile Court Act of 1987
3 involving a minor who was under 15 years of age at the time of
4 the commission of the offense, that occurs in a county without
5 a full-time public defender, the law enforcement agency
6 conducting the custodial interrogation shall ensure that the
7 minor is able to consult with an attorney who is under contract
8 with the county to provide public defender services.
9 Representation by the public defender shall terminate at the
10 first court appearance if the court determines that the minor
11 is not indigent.

12 Every court shall, with the consent of the defendant and
13 where the court finds that the rights of the defendant would be
14 prejudiced by the appointment of the public defender, appoint
15 counsel other than the public defender, except as otherwise
16 provided in Section 113-3 of the "Code of Criminal Procedure
17 of 1963". That counsel shall be compensated as is provided by
18 law. He shall also, in the case of the conviction of any such
19 person, prosecute any proceeding in review which in his
20 judgment the interests of justice require.

21 In counties with a population over 3,000,000, the public
22 defender, without fee or appointment and with the concurrence
23 of the county board, may act as attorney to noncitizens in
24 immigration cases. Representation by the public defender in
25 immigration cases shall be limited to those arising in
26 immigration courts located within the geographical boundaries

1 of the county where the public defender has been appointed to
2 office unless the board authorizes the public defender to
3 provide representation outside the county.

4 (Source: P.A. 99-882, eff. 1-1-17.)