



Sen. Chapin Rose

Filed: 4/22/2021

10200SB2520sam003

LRB102 16523 AWJ 25432 a

1 AMENDMENT TO SENATE BILL 2520

2 AMENDMENT NO. _____. Amend Senate Bill 2520, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Counties Code is amended by changing
6 Section 3-9008 as follows:

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 his or her duties. The court shall
14 consider the petition, any documents filed in response, and if
15 necessary, grant a hearing to determine whether the State's
16 Attorney is sick, absent, or otherwise unable to fulfill his

1 or her duties. If the court finds that the State's Attorney is
2 sick, absent, or otherwise unable to fulfill his or her
3 duties, the court may appoint some competent attorney to
4 prosecute or defend the cause or proceeding.

5 (a-10) The court on its own motion, or an interested
6 person in a cause, ~~or~~ proceeding, or other matter, civil or
7 criminal, may file a petition alleging that the State's
8 Attorney has an actual conflict of interest in the cause or
9 proceeding. The court shall consider the petition, any
10 documents filed in response, and if necessary, grant a hearing
11 to determine whether the State's Attorney has an actual
12 conflict of interest in the cause or proceeding. If the court
13 finds that the petitioner has proven by sufficient facts and
14 evidence that the State's Attorney has an actual conflict of
15 interest in a specific case, the court may appoint some
16 competent attorney to prosecute or defend the cause, ~~or~~
17 proceeding, or other matter.

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

23 (a-20) Prior to appointing a private attorney under this
24 Section, the court shall contact public agencies, including,
25 but not limited to, the Office of Attorney General, Office of
26 the State's Attorneys Appellate Prosecutor, or local State's

1 Attorney's Offices throughout the State, to determine a public
2 prosecutor's availability to serve as a special prosecutor at
3 no cost to the county and shall appoint a public agency if they
4 are able and willing to accept the appointment. An attorney so
5 appointed shall have the same power and authority in relation
6 to the cause or proceeding as the State's Attorney would have
7 if present and attending to the cause or proceedings.

8 (b) In case of a vacancy of more than one year occurring in
9 any county in the office of State's attorney, by death,
10 resignation or otherwise, and it becomes necessary for the
11 transaction of the public business, that some competent
12 attorney act as State's attorney in and for such county during
13 the period between the time of the occurrence of such vacancy
14 and the election and qualification of a State's attorney, as
15 provided by law, the vacancy shall be filled upon the written
16 request of a majority of the circuit judges of the circuit in
17 which is located the county where such vacancy exists, by
18 appointment as provided in The Election Code of some competent
19 attorney to perform and discharge all the duties of a State's
20 attorney in the said county, such appointment and all
21 authority thereunder to cease upon the election and
22 qualification of a State's attorney, as provided by law. Any
23 attorney appointed for any reason under this Section shall
24 possess all the powers and discharge all the duties of a
25 regularly elected State's attorney under the laws of the State
26 to the extent necessary to fulfill the purpose of such

1 appointment, and shall be paid by the county he serves not to
2 exceed in any one period of 12 months, for the reasonable
3 amount of time actually expended in carrying out the purpose
4 of such appointment, the same compensation as provided by law
5 for the State's attorney of the county, apportioned, in the
6 case of lesser amounts of compensation, as to the time of
7 service reasonably and actually expended. The county shall
8 participate in all agreements on the rate of compensation of a
9 special prosecutor.

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

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