

HB2101



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2101

Introduced 2/7/2023, by

SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-9005

from Ch. 34, par. 3-9005

Amends the Counties Code. Removes a provision limiting a special investigator appointed by a State's Attorney to carrying a firearm only in the performance of the special investigator's assigned duties (currently, a special investigator shall not carry firearms except with permission of the State's Attorney and only while carrying appropriate identification indicating the special investigator's employment and in the performance of the special investigator's assigned duties).

LRB103 04556 AWJ 49563 b

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 3-9005 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 the 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 the county, or to any
17 school district or road district in the county; also, to
18 prosecute all suits in the 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 the county
23 officer's official capacity.

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

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

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

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

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

1 10-day period, then the State's Attorney shall furnish
2 such as soon as may be reasonable.

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

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

9 (11) To perform such other and further duties as may,
10 from time to time, be enjoined on the State's Attorney by
11 law.

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

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

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

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

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

26 No special investigator employed by the State's Attorney

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

12 Before a person is appointed as a special investigator,
13 the person's fingerprints shall be taken and transmitted to
14 the Department of State Police. The Department shall examine
15 its records and submit to the State's Attorney of the county in
16 which the investigator seeks appointment any conviction
17 information concerning the person on file with the Department.
18 No person shall be appointed as a special investigator if the
19 person has been convicted of a felony or other offense
20 involving moral turpitude. A special investigator shall be
21 paid a salary and be reimbursed for actual expenses incurred
22 in performing the special investigator's assigned duties. The
23 county board shall approve the salary and actual expenses and
24 appropriate the salary and expenses in the manner prescribed
25 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
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, and
5 only upon receipt of a written request by the superintendent
6 of the county Veterans Assistance Commission for the county in
7 which the State's Attorney is located, the State's Attorney
8 shall have the discretionary authority to render an opinion,
9 without fee or reward, upon any question of law relating to a
10 matter in which the county Veterans Assistance Commission may
11 be concerned. The State's Attorney shall have the discretion
12 to grant or decline such a request.

13 (Source: P.A. 101-275, eff. 8-9-19; 102-56, eff. 7-9-21.)