



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB5083

by Rep. Robert W. Pritchard

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-202  
735 ILCS 5/2-203

from Ch. 110, par. 2-202  
from Ch. 110, par. 2-203

Amends the Code of Civil Procedure. Provides that in any county (instead of in counties with a population of less than 1,000,000), process may be served, without court appointment, by a licensed private detective or by a registered employee of a detective agency. Provides that a private person appointed by the court to serve process shall not be appointed to serve process in more than 5 cases per calendar year. Provides that if a private person is appointed to serve process, the person shall describe the appointment on the return and state that he or she has not served process in more than 5 court cases that year. Provides that the fact that a person appointed to serve process in more than 5 court cases in a year shall not impair the validity of the process served by that person.

LRB095 18742 AJ0 45270 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by  
5 changing Sections 2-202 and 2-203 as follows:

6 (735 ILCS 5/2-202) (from Ch. 110, par. 2-202)

7 Sec. 2-202. Persons authorized to serve process; Place of  
8 service; Failure to make return.

9 (a) Process shall be served by a sheriff, or if the sheriff  
10 is disqualified, by a coroner of some county of the State. A  
11 sheriff of a county with a population of less than 1,000,000  
12 may employ civilian personnel to serve process. Process ~~in~~  
13 ~~counties with a population of less than 1,000,000, process~~ may  
14 be served, without special appointment, by a person who is  
15 licensed ~~or registered~~ as a private detective under the Private  
16 Detective, Private Alarm, Private Security, Fingerprint  
17 Vendor, and Locksmith Act of 2004 or by a registered employee  
18 of a private detective agency licensed ~~certified~~ under that  
19 Act. A licensed private detective or registered ~~licensed~~  
20 employee must supply the sheriff of any county in which he  
21 serves process with a copy of his license or certificate;  
22 however, the failure of a person to supply the copy shall not  
23 in any way impair the validity of process served by the person.

1 The court may, in its discretion upon motion, order service to  
2 be made by a private person over 18 years of age and not a party  
3 to the action; however, no person appointed to serve process  
4 under this subsection (a) shall be appointed in more than 5  
5 cases per calendar year. The fact that a person appointed to  
6 serve process serves or attempts to serve process in more than  
7 5 court cases in a calendar year shall not in any way impair  
8 the validity of process served by the person. It is not  
9 necessary that service be made by a sheriff or coroner of the  
10 county in which service is made. If served or sought to be  
11 served by a sheriff or coroner, he or she shall endorse his or  
12 her return thereon, and if by a private person the return shall  
13 be by affidavit.

14 (a-5) Upon motion and in its discretion, the court may  
15 appoint as a special process server a private detective agency  
16 certified under the Private Detective, Private Alarm, Private  
17 Security, Fingerprint Vendor, and Locksmith Act of 2004. Under  
18 the appointment, any employee of the private detective agency  
19 who is registered under that Act may serve the process. The  
20 motion and the order of appointment must contain the number of  
21 the certificate issued to the private detective agency by the  
22 Department of Professional Regulation under the Private  
23 Detective, Private Alarm, Private Security, Fingerprint  
24 Vendor, and Locksmith Act of 2004.

25 (b) Summons may be served upon the defendants wherever they  
26 may be found in the State, by any person authorized to serve

1 process. An officer may serve summons in his or her official  
2 capacity outside his or her county, but fees for mileage  
3 outside the county of the officer cannot be taxed as costs. The  
4 person serving the process in a foreign county may make return  
5 by mail.

6 (c) If any sheriff, coroner, or other person to whom any  
7 process is delivered, neglects or refuses to make return of the  
8 same, the plaintiff may petition the court to enter a rule  
9 requiring the sheriff, coroner, or other person, to make return  
10 of the process on a day to be fixed by the court, or to show  
11 cause on that day why that person should not be attached for  
12 contempt of the court. The plaintiff shall then cause a written  
13 notice of the rule to be served on the sheriff, coroner, or  
14 other person. If good and sufficient cause be not shown to  
15 excuse the officer or other person, the court shall adjudge him  
16 or her guilty of a contempt, and shall impose punishment as in  
17 other cases of contempt.

18 (d) If process is served by a sheriff or coroner, the court  
19 may tax the fee of the sheriff or coroner as costs in the  
20 proceeding. If process is served by a private person or entity,  
21 the court may establish a fee therefor and tax such fee as  
22 costs in the proceedings.

23 (e) In addition to the powers stated in Section 8.1a of the  
24 Housing Authorities Act, in counties with a population of  
25 3,000,000 or more inhabitants, members of a housing authority  
26 police force may serve process for forcible entry and detainer

1 actions commenced by that housing authority and may execute  
2 orders of possession for that housing authority.

3 (f) In counties with a population of 3,000,000 or more,  
4 process may be served, with special appointment by the court,  
5 by a private process server or a law enforcement agency other  
6 than the county sheriff in proceedings instituted under the  
7 Forcible Entry and Detainer Article of this Code as a result of  
8 a lessor or lessor's assignee declaring a lease void pursuant  
9 to Section 11 of the Controlled Substance and Cannabis Nuisance  
10 Act.

11 (Source: P.A. 95-613, eff. 9-11-07.)

12 (735 ILCS 5/2-203) (from Ch. 110, par. 2-203)

13 Sec. 2-203. Service on individuals.

14 (a) Except as otherwise expressly provided, service of  
15 summons upon an individual defendant shall be made (1) by  
16 leaving a copy of the summons with the defendant personally,  
17 (2) by leaving a copy at the defendant's usual place of abode,  
18 with some person of the family or a person residing there, of  
19 the age of 13 years or upwards, and informing that person of  
20 the contents of the summons, provided the officer or other  
21 person making service shall also send a copy of the summons in  
22 a sealed envelope with postage fully prepaid, addressed to the  
23 defendant at his or her usual place of abode, or (3) as  
24 provided in Section 1-2-9.2 of the Illinois Municipal Code with  
25 respect to violation of an ordinance governing parking or

1 standing of vehicles in cities with a population over 500,000.  
2 The certificate of the officer or affidavit of the person that  
3 he or she has sent the copy in pursuance of this Section is  
4 evidence that he or she has done so.

5 (b) The officer, in his or her certificate or in a record  
6 filed and maintained in the Sheriff's office, or other person  
7 making service, in his or her affidavit or in a record filed  
8 and maintained in his or her employer's office, shall (1)  
9 identify as to sex, race, and approximate age the defendant or  
10 other person with whom the summons was left and (2) state the  
11 place where (whenever possible in terms of an exact street  
12 address) and the date and time of the day when the summons was  
13 left with the defendant or other person. If service was made by  
14 a licensed private detective or a registered employee of a  
15 licensed private detective agency, the affidavit of service  
16 shall clearly state that fact by including one of the following  
17 statements: (1) "I am licensed by the Illinois Department of  
18 Financial and Professional Regulation as a private detective";  
19 or (2) "I am a registered employee of a private detective  
20 agency licensed by the Illinois Department of Financial and  
21 Professional Regulation". If service was made by a private  
22 person under special appointment by the court, the affidavit of  
23 service shall state that fact by containing the following: "I  
24 am a private person over the age of 18 years. I was appointed  
25 to serve process in this case on (insert date) by (name of  
26 judge). I have not been appointed to serve process within the

1 State of Illinois in more than five cases in this calender  
2 year."

3 (c) Any person who knowingly sets forth in the certificate  
4 or affidavit any false statement, shall be liable in civil  
5 contempt. When the court holds a person in civil contempt under  
6 this Section, it shall award such damages as it determines to  
7 be just and, when the contempt is prosecuted by a private  
8 attorney, may award reasonable attorney's fees.

9 (Source: P.A. 88-340.)