



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5578

by Rep. Frank J. Mautino

SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1101

from Ch. 110, par. 2-1101

Amends the Code of Civil Procedure. Provides that a party seeking to subpoena a public school employee to testify during school hours must obtain a court order. Provides that the order shall provide that the party tender, in addition to the required witness and mileage fee, a fee to the school district to pay the substitute teacher or other temporary staff employed during the witness's absence and consult with the school district to schedule the appearance to minimize disruption of the educational program. Provides that any subpoena of a public school employee that does not meet these requirements is void as a matter of law. Provides that if a conflict arises over the fees for a subpoenaed public school employee, the court shall determine the fee. Effective immediately.

LRB095 16771 AJO 42807 b

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 Section 2-1101 as follows:

6 (735 ILCS 5/2-1101) (from Ch. 110, par. 2-1101)
7 Sec. 2-1101. Subpoenas.

8 (a) The clerk of any court in which an action is pending
9 shall, from time to time, issue subpoenas for those witnesses
10 and to those counties in the State as may be required by either
11 party. Every clerk who shall refuse so to do shall be guilty of
12 a petty offense and fined any sum not to exceed \$100. An order
13 of court is not required to obtain the issuance by the clerk of
14 a subpoena duces tecum. For good cause shown, the court on
15 motion may quash or modify any subpoena or, in the case of a
16 subpoena duces tecum, condition the denial of the motion upon
17 payment in advance by the person in whose behalf the subpoena
18 is issued of the reasonable expense of producing any item
19 therein specified.

20 (b) Any party who desires to compel the appearance of a
21 public school employee to testify during school hours must
22 first obtain an order of court authorizing the issuance of the
23 subpoena. The order shall provide (i) that the party tender, in

1 addition to the required witness and mileage fee, a fee to the
2 school district in an amount sufficient to pay the substitute
3 teacher or other temporary staff employed during the witness's
4 absence and (ii) that the party consult with the school
5 district's administrator or the administrator's designee to
6 schedule the public school employee's appearance so as to
7 minimize disruption of the educational program. Any subpoena
8 directed to a public school employee that fails to comply with
9 the requirements of this subsection (b) shall be void as a
10 matter of law.

11 (c) In the event that a party has subpoenaed a public
12 school employee or an expert witness including, but not limited
13 to physicians or medical providers, and the ~~expert~~ witness
14 appears in court, and a conflict arises between the party
15 subpoenaing the ~~expert~~ witness and the ~~expert~~ witness over the
16 fees charged for the appearance ~~by the expert witness~~, the
17 trial court shall be advised of the conflict. The trial court
18 shall conduct a hearing subsequent to the testimony of the
19 ~~expert~~ witness and shall determine the reasonable fee to be
20 paid ~~to the expert witness~~.

21 (Source: P.A. 87-418.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.