

AN ACT concerning local government.

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

Section 5. The Counties Code is amended by changing Section 3-9005 as follows:

(55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)

Sec. 3-9005. Powers and duties of State's attorney.

(a) The duty of each State's attorney shall be:

(1) To commence and prosecute all actions, suits, indictments and prosecutions, civil and criminal, in the circuit court for his county, in which the people of the State or county may be concerned.

(2) To prosecute all forfeited bonds and recognizances, and all actions and proceedings for the recovery of debts, revenues, moneys, fines, penalties and forfeitures accruing to the State or his county, or to any school district or road district in his county; also, to prosecute all suits in his county against railroad or transportation companies, which may be prosecuted in the name of the People of the State of Illinois.

(3) To commence and prosecute all actions and proceedings brought by any county officer in his official capacity.

(4) To defend all actions and proceedings brought against his county, or against any county or State officer, in his official capacity, within his county.

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

(6) To attend before judges and prosecute charges of felony or misdemeanor, for which the offender is required to be recognized to appear before the circuit court, when in his power so to do.

(7) To give his opinion, without fee or reward, to any county officer in his county, upon any question or law relating to any criminal or other matter, in which the people or the county may be concerned.

(8) To assist the attorney general whenever it may be necessary, and in cases of appeal from his county to the Supreme Court, to which it is the duty of the attorney general to attend, he shall furnish the attorney general at least 10 days before such is due to be filed, a manuscript of a proposed statement, brief and argument to be printed and filed on behalf of the people, prepared in accordance with the rules of the Supreme Court. However, if such brief, argument or other document is due to be filed by law or order of court within this 10 day period, then the State's attorney shall furnish such as soon as may be reasonable.

(9) To pay all moneys received by him in trust, without delay, to the officer who by law is entitled to the custody thereof.

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

(11) To perform such other and further duties as may, from time to time, be enjoined on him by law.

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

(13) To notify, by first-class mail, the State Superintendent of Education, the applicable regional superintendent of schools, and the superintendent of the employing school district or the chief school administrator of the employing nonpublic school, if any, upon the conviction of any individual known to possess a certificate or license issued pursuant to Article 21 or 21B, respectively, of the School Code of any offense set forth in Section 21B-80 of the School Code or any other felony conviction, providing the name of the certificate holder, the fact of the conviction, and the name and location of the court where the conviction occurred. The certificate holder must also be contemporaneously sent a

copy of the notice.

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

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

No special investigator employed by the State's Attorney shall have peace officer status or exercise police powers unless he or she successfully completes the basic police training course mandated and approved by the Illinois Law Enforcement Training Standards Board or such board waives the

training requirement by reason of the special investigator's prior law enforcement experience or training or both. Any State's Attorney appointing a special investigator shall consult with all affected local police agencies, to the extent consistent with the public interest, if the special investigator is assigned to areas within that agency's jurisdiction.

Before a person is appointed as a special investigator, his fingerprints shall be taken and transmitted to the Department of State Police. The Department shall examine its records and submit to the State's Attorney of the county in which the investigator seeks appointment any conviction information concerning the person on file with the Department. No person shall be appointed as a special investigator if he has been convicted of a felony or other offense involving moral turpitude. A special investigator shall be paid a salary and be reimbursed for actual expenses incurred in performing his assigned duties. The county board shall approve the salary and actual expenses and appropriate the salary and expenses in the manner prescribed by law or ordinance.

(c) The State's Attorney may request and receive from employers, labor unions, telephone companies, and utility companies location information concerning putative fathers and noncustodial parents for the purpose of establishing a child's paternity or establishing, enforcing, or modifying a child support obligation. In this subsection, "location information"

means information about (i) the physical whereabouts of a putative father or noncustodial parent, (ii) the putative father or noncustodial parent's employer, or (iii) the salary, wages, and other compensation paid and the health insurance coverage provided to the putative father or noncustodial parent by the employer of the putative father or noncustodial parent or by a labor union of which the putative father or noncustodial parent is a member.

(d) For each State fiscal year, the State's Attorney of Cook County shall appear before the General Assembly and request appropriations to be made from the Capital Litigation Trust Fund to the State Treasurer for the purpose of providing assistance in the prosecution of capital cases in Cook County and for the purpose of providing assistance to the State in post-conviction proceedings in capital cases under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases. The State's Attorney may appear before the General Assembly at other times during the State's fiscal year to request supplemental appropriations from the Trust Fund to the State Treasurer.

(e) The State's Attorney shall have the authority to enter into a written agreement with the Department of Revenue for pursuit of civil liability under subsection (E) of Section 17-1 of the Criminal Code of 2012 against persons who have issued to the Department checks or other orders in violation of the

provisions of paragraph (1) of subsection (B) of Section 17-1 of the Criminal Code of 2012, with the Department to retain the amount owing upon the dishonored check or order along with the dishonored check fee imposed under the Uniform Penalty and Interest Act, with the balance of damages, fees, and costs collected under subsection (E) of Section 17-1 of the Criminal Code of 2012 or under Section 17-1a of that Code to be retained by the State's Attorney. The agreement shall not affect the allocation of fines and costs imposed in any criminal prosecution.

(Source: P.A. 96-431, eff. 8-13-09; 96-1551, eff. 7-1-11; 97-607, eff. 8-26-11; 97-1150, eff. 1-25-13.)

Section 10. The Code of Civil Procedure is amended by changing Section 2-202 as follows:

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

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

(a) Process shall be served by a sheriff, or if the sheriff is disqualified, by a coroner of some county of the State. In matters where the county or State is an interested party, process may be served by a special investigator appointed by the State's Attorney of the county, as defined in Section 3-9005 of the Counties Code. A sheriff of a county with a population of less than 2,000,000 may employ civilian personnel

to serve process. In counties with a population of less than 2,000,000, process may be served, without special appointment, by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 or by a registered employee of a private detective agency certified under that Act as defined in Section (a-5). A private detective or licensed employee must supply the sheriff of any county in which he serves process with a copy of his license or certificate; however, the failure of a person to supply the copy shall not in any way impair the validity of process served by the person. The court may, in its discretion upon motion, order service to be made by a private person over 18 years of age and not a party to the action. It is not necessary that service be made by a sheriff or coroner of the county in which service is made. If served or sought to be served by a sheriff or coroner, he or she shall endorse his or her return thereon, and if by a private person the return shall be by affidavit.

(a-5) Upon motion and in its discretion, the court may appoint as a special process server a private detective agency certified under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004. Under the appointment, any employee of the private detective agency who is registered under that Act may serve the process. The motion and the order of appointment must contain the number of the certificate issued to the private detective agency by the

Department of Professional Regulation under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004. A private detective or private detective agency shall send, one time only, a copy of his, her, or its individual private detective license or private detective agency certificate to the county sheriff in each county in which the detective or detective agency or his, her, or its employees serve process, regardless of size of the population of the county. As long as the license or certificate is valid and meets the requirements of the Department of Financial and Professional Regulation, a new copy of the current license or certificate need not be sent to the sheriff. A private detective agency shall maintain a list of its registered employees. Registered employees shall consist of:

- (1) an employee who works for the agency holding a valid Permanent Employee Registration Card;

- (2) a person who has applied for a Permanent Employee Registration Card, has had his or her fingerprints processed and cleared by the Department of State Police and the FBI, and as to whom the Department of Financial and Professional Regulation website shows that the person's application for a Permanent Employee Registration Card is pending;

- (3) a person employed by a private detective agency who is exempt from a Permanent Employee Registration Card requirement because the person is a current peace officer;

and

(4) a private detective who works for a private detective agency as an employee.

A detective agency shall maintain this list and forward it to any sheriff's department that requests this list within 5 business days after the receipt of the request.

(b) Summons may be served upon the defendants wherever they may be found in the State, by any person authorized to serve process. An officer may serve summons in his or her official capacity outside his or her county, but fees for mileage outside the county of the officer cannot be taxed as costs. The person serving the process in a foreign county may make return by mail.

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

(d) If process is served by a sheriff, ~~or~~ coroner, or

special investigator appointed by the State's Attorney, the court may tax the fee of the sheriff, ~~or~~ coroner, or State's Attorney's special investigator as costs in the proceeding. If process is served by a private person or entity, the court may establish a fee therefor and tax such fee as costs in the proceedings.

(e) In addition to the powers stated in Section 8.1a of the Housing Authorities Act, in counties with a population of 3,000,000 or more inhabitants, members of a housing authority police force may serve process for forcible entry and detainer actions commenced by that housing authority and may execute orders of possession for that housing authority.

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

(Source: P.A. 96-1451, eff. 8-20-10; 97-427, eff. 1-1-12.)

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