

# HB0554



## 97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0554

Introduced 01/31/11, by Rep. Michael J. Madigan

### SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-9005

from Ch. 34, par. 3-9005

Amends the Counties Code. Makes a technical change in a Section concerning the powers and duties of State's attorneys.

LRB097 03381 KMW 43418 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 Section  
5 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 ~~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 his 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 his county, or to any  
17 school district or road district in his county; also, to  
18 prosecute all suits in his 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 his official  
23 capacity.

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

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

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

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

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

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

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

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

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

14           (13) To notify, by first-class mail, the State  
15 Superintendent of Education, the applicable regional  
16 superintendent of schools, and the superintendent of the  
17 employing school district or the chief school  
18 administrator of the employing nonpublic school, if any,  
19 upon the conviction of any individual known to possess a  
20 certificate issued pursuant to Article 21 of the School  
21 Code of any offense set forth in Section 21-23a of the  
22 School Code or any other felony conviction, providing the  
23 name of the certificate holder, the fact of the conviction,  
24 and the name and location of the court where the conviction  
25 occurred. The certificate holder must also be  
26 contemporaneously sent a copy of the notice.

1           (b) The State's Attorney of each county shall have  
2 authority to appoint one or more special investigators to serve  
3 subpoenas, make return of process and conduct investigations  
4 which assist the State's Attorney in the performance of his  
5 duties. A special investigator shall not carry firearms except  
6 with permission of the State's Attorney and only while carrying  
7 appropriate identification indicating his employment and in  
8 the performance of his assigned duties.

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

13           No special investigator employed by the State's Attorney  
14 shall have peace officer status or exercise police powers  
15 unless he or she successfully completes the basic police  
16 training course mandated and approved by the Illinois Law  
17 Enforcement Training Standards Board or such board waives the  
18 training requirement by reason of the special investigator's  
19 prior law enforcement experience or training or both. Any  
20 State's Attorney appointing a special investigator shall  
21 consult with all affected local police agencies, to the extent  
22 consistent with the public interest, if the special  
23 investigator is assigned to areas within that agency's  
24 jurisdiction.

25           Before a person is appointed as a special investigator, his  
26 fingerprints shall be taken and transmitted to the Department

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

12 (c) The State's Attorney may request and receive from  
13 employers, labor unions, telephone companies, and utility  
14 companies location information concerning putative fathers and  
15 noncustodial parents for the purpose of establishing a child's  
16 paternity or establishing, enforcing, or modifying a child  
17 support obligation. In this subsection, "location information"  
18 means information about (i) the physical whereabouts of a  
19 putative father or noncustodial parent, (ii) the putative  
20 father or noncustodial parent's employer, or (iii) the salary,  
21 wages, and other compensation paid and the health insurance  
22 coverage provided to the putative father or noncustodial parent  
23 by the employer of the putative father or noncustodial parent  
24 or by a labor union of which the putative father or  
25 noncustodial parent is a member.

26 (d) For each State fiscal year, the State's Attorney of

1 Cook County shall appear before the General Assembly and  
2 request appropriations to be made from the Capital Litigation  
3 Trust Fund to the State Treasurer for the purpose of providing  
4 assistance in the prosecution of capital cases in Cook County  
5 and for the purpose of providing assistance to the State in  
6 post-conviction proceedings in capital cases under Article 122  
7 of the Code of Criminal Procedure of 1963 and in relation to  
8 petitions filed under Section 2-1401 of the Code of Civil  
9 Procedure in relation to capital cases. The State's Attorney  
10 may appear before the General Assembly at other times during  
11 the State's fiscal year to request supplemental appropriations  
12 from the Trust Fund to the State Treasurer.

13 (e) The State's Attorney shall have the authority to enter  
14 into a written agreement with the Department of Revenue for  
15 pursuit of civil liability under Section 17-1a of the Criminal  
16 Code of 1961 against persons who have issued to the Department  
17 checks or other orders in violation of the provisions of  
18 paragraph (d) of subsection (B) of Section 17-1 of the Criminal  
19 Code of 1961, with the Department to retain the amount owing  
20 upon the dishonored check or order along with the dishonored  
21 check fee imposed under the Uniform Penalty and Interest Act,  
22 with the balance of damages, fees, and costs collected under  
23 Section 17-1a of the Criminal Code of 1961 to be retained by  
24 the State's Attorney. The agreement shall not affect the  
25 allocation of fines and costs imposed in any criminal  
26 prosecution.

1 (Source: P.A. 96-431, eff. 8-13-09.)