



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5290

Introduced 2/3/2010, by Rep. Franco Coladipietro

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-202

from Ch. 110, par. 2-202

735 ILCS 5/2-203.2 new

Amends the Code of Civil Procedure. Provides that in a county with a population of less than 2,000,000 (instead of 1,000,000), a sheriff may employ civilian personnel to serve process and that 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 certified private detective agency. Provides that for the security of a correctional facility or jail, a process server may be refused entry. Provides that each facility or jail shall establish a location for service of process. Provides that if a representative of a warden or sheriff accepts service of process for an inmate, the process shall be delivered to the inmate within one day, but no fine may be levied for the failure to do so. Provides that service may be refused if an inmate is not present in the facility or jail. Effective immediately.

LRB096 14615 AJO 29454 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 2-202 and by adding Section 2-203.2 as  
6 follows:

7 (735 ILCS 5/2-202) (from Ch. 110, par. 2-202)

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

10 (a) Process shall be served by a sheriff, or if the sheriff  
11 is disqualified, by a coroner of some county of the State. A  
12 sheriff of a county with a population of less than 2,000,000  
13 ~~1,000,000~~ may employ civilian personnel to serve process. In  
14 counties with a population of less than 2,000,000 ~~1,000,000~~,  
15 process may be served, without special appointment, by a person  
16 who is licensed or registered as a private detective under the  
17 Private Detective, Private Alarm, Private Security,  
18 Fingerprint Vendor, and Locksmith Act of 2004 or by a  
19 registered employee of a private detective agency certified  
20 under that Act. A private detective or licensed employee must  
21 supply the sheriff of any county in which he serves process  
22 with a copy of his license or certificate; however, the failure  
23 of a person to supply the copy shall not in any way impair the

1 validity of process served by the person. The court may, in its  
2 discretion upon motion, order service to be made by a private  
3 person over 18 years of age and not a party to the action. It is  
4 not necessary that service be made by a sheriff or coroner of  
5 the county in which service is made. If served or sought to be  
6 served by a sheriff or coroner, he or she shall endorse his or  
7 her return thereon, and if by a private person the return shall  
8 be by affidavit.

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

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

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

13 (d) If process is served by a sheriff or coroner, the court  
14 may tax the fee of the sheriff or coroner as costs in the  
15 proceeding. If process is served by a private person or entity,  
16 the court may establish a fee therefor and tax such fee as  
17 costs in the proceedings.

18 (e) In addition to the powers stated in Section 8.1a of the  
19 Housing Authorities Act, in counties with a population of  
20 3,000,000 or more inhabitants, members of a housing authority  
21 police force may serve process for forcible entry and detainer  
22 actions commenced by that housing authority and may execute  
23 orders of possession for that housing authority.

24 (f) In counties with a population of 3,000,000 or more,  
25 process may be served, with special appointment by the court,  
26 by a private process server or a law enforcement agency other

1 than the county sheriff in proceedings instituted under the  
2 Forcible Entry and Detainer Article of this Code as a result of  
3 a lessor or lessor's assignee declaring a lease void pursuant  
4 to Section 11 of the Controlled Substance and Cannabis Nuisance  
5 Act.

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

7 (735 ILCS 5/2-203.2 new)

8 Sec. 2-203.2. Service on an inmate. For the security of a  
9 correctional institution or facility or jail, a process server  
10 may be refused entry into a correctional institution or  
11 facility or jail. Each correctional institution or facility or  
12 jail shall establish a location where an inmate may accept  
13 service of process, but if no location is established, a  
14 process server shall be granted entry for service of process.  
15 Service upon a warden's or sheriff's representative shall  
16 constitute substitute service and a mailing to the inmate of  
17 the process shall be completed by the server in accordance with  
18 Section 2-202. A warden's or sheriff's representative  
19 accepting substitute service shall forward the process to the  
20 inmate within one business day, but if for any reason the  
21 process is not forwarded to the inmate, the sheriff, sheriff's  
22 representative, warden, or warden's representative shall not  
23 be responsible for any civil fine. If for any reason an inmate  
24 is not in the correctional institution or facility or jail at  
25 the time of the service of process, a warden's or sheriff's

1 representative may refuse to accept service for the inmate.

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