

HB0749



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0749

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.

LRB099 04559 AWJ 24587 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 or license issued pursuant to Article 21 or
21 21B, respectively, of the School Code of any offense set
22 forth in Section 21B-80 of the School Code or any other
23 felony conviction, providing the name of the certificate
24 holder, the fact of the conviction, and the name and
25 location of the court where the conviction occurred. The
26 certificate holder must also be contemporaneously sent a

1 copy of the notice.

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

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

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

26 Before a person is appointed as a special investigator, his

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

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

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

14 (e) The State's Attorney shall have the authority to enter
15 into a written agreement with the Department of Revenue for
16 pursuit of civil liability under subsection (E) of Section 17-1
17 of the Criminal Code of 2012 against persons who have issued to
18 the Department checks or other orders in violation of the
19 provisions of paragraph (1) of subsection (B) of Section 17-1
20 of the Criminal Code of 2012, with the Department to retain the
21 amount owing upon the dishonored check or order along with the
22 dishonored check fee imposed under the Uniform Penalty and
23 Interest Act, with the balance of damages, fees, and costs
24 collected under subsection (E) of Section 17-1 of the Criminal
25 Code of 2012 or under Section 17-1a of that Code to be retained
26 by the State's Attorney. The agreement shall not affect the

1 allocation of fines and costs imposed in any criminal
2 prosecution.

3 (Source: P.A. 96-431, eff. 8-13-09; 96-1551, eff. 7-1-11;
4 97-607, eff. 8-26-11; 97-1150, eff. 1-25-13.)