



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

July 9, 1999

Jim Ryan
ATTORNEY GENERAL

FILE NO. 99-016

OFFICERS:
Deputy Circuit Clerk
Serving Multiple Counties

The Honorable Patrick Duffy
State's Attorney, Pulaski County
Second and High Street
Mound City, Illinois 62963-0118

Dear Mr. Duffy:

I have your letter wherein you inquire whether a deputy circuit clerk of the county in which a regional jail and detention facility is located may be appointed to serve as a deputy circuit clerk of the other counties which use the facility. For the reasons hereinafter stated, it is my opinion that, in the circumstances you have described, a deputy circuit clerk may be appointed to serve as a deputy circuit clerk for another county simultaneously.

You have stated that Alexander County, Pulaski County and Union County have entered into an agreement for the construction and operation of a regional jail and detention facility.

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The facility is located in Pulaski County, the most central location for all three jurisdictions. The facility contains a courtroom and office space for various court personnel and court related officers (e.g., judges, State's Attorneys, court reporters and probation department personnel). In addition, the Pulaski County Circuit Clerk will maintain an office in the facility.

As envisioned, the courtroom in the facility will be used for first appearances and the setting of bail for prisoners from all three counties. In addition, the courtroom may be used for preliminary hearings, arraignments and motion hearings for defendants who have been detained pending trial. It is expected that in the course of conducting these preliminary proceedings, it will be necessary to file documents with the circuit clerk's office of the appropriate county. You have inquired whether, instead of requiring an attorney or a defendant to travel to the circuit clerk's office of the appropriate county, or to mail documents to that office for filing, the Pulaski County deputy circuit clerk assigned to staff the clerk's office in the regional jail and detention facility may be appointed to serve as a deputy circuit clerk of the other counties which are parties to the regional jail and detention facility agreement.

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The Clerks of Courts Act (705 ILCS 105/0.01 et seq. (West 1996)) generally governs the operation of the circuit clerk's office. Under the language of the Act, circuit clerks are required to "* * * attend in person to the duties of their offices * * * when it is practicable so to do * * *" and to "* * * perform all the duties thereof which can reasonably be performed by one person. * * *" (705 ILCS 105/8 (West 1996).) When a circuit clerk cannot personally attend to the duties of the office, however, section 9 of the Act (705 ILCS 105/9 (West 1996)) authorizes the appointment of deputy circuit clerks:

"The clerks may, when necessary, appoint deputies, who shall take the same oath or affirmation as is required of the principal clerk, which shall be entered into the records of their office."

Section 10 of the Act (705 ILCS 105/10 (West 1996)) provides that the "* * * clerk shall, in all cases, be responsible for the acts of his or her deputies".

The primary purpose of statutory construction is to ascertain and give effect to the intent of the General Assembly. (Department of Public Aid ex rel. Davis v. Brewer (1998), 183 Ill. 2d 540, 554.) Legislative intent is best evidenced by the language used in the statute. (People v. Koppa (1998), 184 Ill. 2d 159, 169.) Where statutory language is clear and unambiguous,

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it must be given effect as written. Gem Electronics v. Department of Revenue (1998), 183 Ill. 2d 470, 475.

Under the plain and unambiguous language of section 9 of the Act, the clerk of the circuit court is given the exclusive authority to appoint deputy clerks of the circuit court. (See generally County of Kane v. Carlson (1987), 116 Ill. 2d 186, 200.) In exercising this grant of authority, nothing in the language of that section or in any other pertinent statutory provision precludes a circuit clerk from entering into an agreement with another circuit clerk to "share" the services of a deputy circuit clerk. Therefore, assuming that the requisite oath or affirmation is entered into each circuit clerk's records as required by law, it is my opinion that a deputy circuit clerk of Pulaski County may also be appointed to serve as a deputy circuit clerk of the other counties which are parties to the regional jail and detention facility agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Ryan". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

JAMES E. RYAN
ATTORNEY GENERAL