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lacked the authority under the Public Defender Act¹ to select whom to hire or retain in the public defender's office and lacked the authority to impose furlough days on designated members of the public defender's office. We also held that the Cook County public defender had standing to bring suit for violations of the Act. Both this case and the prior one concern the actions of defendant Todd Stroger, who, in his capacity as president of the Cook County board of commissioners, allegedly selected 34 members of the Cook County public defender's office for termination in 2007, including the 13 assistant public defenders (APDs) named as plaintiffs in the instant appeal. Stroger also allegedly directed designated personnel in the public defender's office to take unpaid "furlough" days.

¶ 3 In the prior *Burnette* suit, the Cook County public defender brought suit against Stroger, alleging that his actions violated section 3-4008.1 of the Act (55 ILCS 5/3-4008.1 (West 2006)). After the trial court granted the *Burnette* defendants' motion to dismiss in part, the trial court certified four questions for our interlocutory review. The American Federation of State, County and Municipal Employees, Council 31 (AFSCME), plaintiffs in the instant appeal, filed a petition to intervene in the *Burnette* litigation, which was stayed by the trial court pending our interlocutory review of the four certified questions. After we answered the certified questions in *Burnette*, the parties entered into a consent decree. AFSCME's petition to intervene was "dismissed without prejudice."

¶ 4 Plaintiffs then filed a two-count complaint in the instant case against defendants Stroger

¹ Sections 3-4000 through 3-4011 of the Counties Code (55 ILCS 5/3-4000 through 3-4011 (West 2006)) is commonly called the Public Defender Act (hereinafter, the Act).

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and Cook County: count I alleges that Stroger had violated section 3-4008.1 of the Act and count II alleges that they were entitled to relief under the consent decree. Defendants filed a motion to dismiss both counts pursuant to section 2-615 of the Code of Civil Procedure (the Code) (735 ILCS 5/2-615 (West 2006)), arguing that they failed to state causes of action upon which relief could be granted. The motion claimed that count I failed to state a cause of action because (1) section 3-4008.1 of the Act did not create a private right of action, (2) the Illinois Public Labor Relations Board had exclusive jurisdiction over plaintiffs' claims, (3) plaintiffs failed to exhaust their contract remedies, and (4) plaintiffs' claims were time-barred. The motion further claimed that count II failed to state a cause of action because (1) the consent decree, which was created in 2009, could not have been violated in 2007, when Stroger's alleged violations of the decree occurred; (2) plaintiffs lacked standing to enforce the consent decree; (3) any action to enforce the consent decree was required to be in the form of a contempt petition in the *Burnette* action and not as an independent claim; and (4) the claim was barred by *laches*. The trial court granted defendants' motion to dismiss as to count II. Later, the trial court revised its order concerning the motion to dismiss, amending the order to grant defendants' motion to dismiss count I based on lack of jurisdiction.

¶ 5 Plaintiffs appeal the dismissal of count I, arguing (1) the trial court abused its discretion by *sua sponte* reversing its order concerning the motion to dismiss, (2) section 3-4008.1 of the Act permits a private action by plaintiffs for Stroger's alleged violations of the statute, (3) plaintiffs' claim under the Act is not under the exclusive jurisdiction of the Illinois Labor Relations Board, (4) plaintiffs were not required to exhaust the contractual grievance procedures

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under their collective bargaining agreement, and (5) plaintiffs' claims are not time-barred. We affirm.

¶ 6

BACKGROUND

¶ 7

I. *Burnette* Decision

¶ 8 Since the detailed background of *Burnette*, 389 Ill. App. 3d 321, is set forth in that decision, we recite only those facts necessary for a full understanding of the issues in the instant appeal.

¶ 9 On November 16, 2007, the Cook County public defender filed a four-count complaint against several defendants, including Stroger, in Stroger's capacity as president of the Cook County board of commissioners. The complaint alleged that, in March 2007, the Cook County board of commissioners approved a budget amendment that involved laying off employees of the Cook County public defender's office; the amendment listed only the types of positions to be reduced. The complaint further alleged that 34 employees were selected for termination with the " 'advice and approval' " of Stroger and without consulting the public defender, and that Stroger also later directed select employees in the public defender's office to take furlough days.

Burnette, 389 Ill. App. 3d at 322. Count I sought reinstatement and reimbursement of the 34 laid-off employees. Count II sought the end of furlough days and restitution for any employee who had already taken them. Count III sought relief related to APD supervisors. Count IV sought a declaration that the public defender had exclusive power to appoint his staff, that the defendants must honor that independence, and that Stroger was not permitted to take unilateral employment-related actions. Shortly after the complaint was filed, AFSCME, as the bargaining

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representative for APDs, investigators, and support staff, filed a petition to intervene in the case.²

¶ 10 On January 10, 2008, the defendants moved to dismiss the complaint pursuant to section 2-619 of the Code (735 ILCS 5/2-619 (West 2006)), arguing in part that the public defender did not have the power to institute civil litigation and lacked standing to assert the rights of laid-off or terminated employees. On May 30, 2008, the trial court denied in part and granted in part the motion to dismiss. In *Burnette*, we noted: “During argument on the dismissal motion, the president’s attorney conceded, in essence, the standing of those seeking to intervene, when he stated: ‘Certainly those individuals who have potentially lost their positions or -- have lost their positions, they have standing to bring a case.’ ” *Burnette*, 389 Ill. App. 3d at 325.

¶ 11 On June 3, 2008, Stroger moved to certify an interlocutory appeal. On July 24, 2008, the trial court entered an order staying the petitions to intervene pending the outcome of the interlocutory review, and, on October 14, 2008, the trial court certified four questions for appeal. We accepted the public defender’s petition for leave to appeal, and considered the certified questions in our *Burnette* decision.

¶ 12 On appeal, the public defender withdrew his request for relief in part of the second certified question. We noted:

“The second question asks, in part: ‘whether the Public Defender may assert the rights of Cook County employees who were required to take furlough days during the year 2007 or the indigent

² A petition to intervene was also filed by the public defender’s chief of staff.

accused.’ However, in its appellate brief, the public defender states: ‘While the complaint contains requests for relief on behalf of employees and the indigent, that relief was stricken and it has been repeatedly stated by the Public Defender that such relief is not requested.’ In light of the public defender’s concession, we will not consider the second part of the second question.”

Burnette, 389 Ill. App. 3d at 330.

¶ 13 In deciding the second certified question, we found that the public defender had standing to contest both the selection of whom to fire and the imposition of furlough days on designated employees. *Burnette*, 389 Ill. App. 3d at 332. We further stated that “we note that the petitions of those seeking to intervene are stayed, pending our ruling on these questions; and the president has not disputed their standing to contest terminations or furlough days.” *Burnette*, 389 Ill. App. 3d at 332.

¶ 14 Additionally, we found that the power over the public defender’s staff was divided between the public defender and the county board, “with the public defender receiving the power to hire and fire, and the county board receiving the power to fix the compensation and number of assistant defenders and other staff members.” *Burnette*, 389 Ill. App. 3d at 336. We held that Stroger lacked the authority to select whom to hire, fire, or retain among the public defender’s staff and lacked the authority to impose furlough days on designated members of the public defender’s staff. *Burnette*, 389 Ill. App. 3d at 336.

¶ 15 After our decision in *Burnette*, the parties entered into a consent decree, entered by the

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court on March 31, 2009. The consent decree read, in part: “This Consent Decree is entered into and intended to benefit the People of the State of Illinois, the People of Cook County, the Public Defender, and, collectively, the employees of the Office of the Cook County Public Defender.” On July 8, 2009, the trial court ordered that the petitions to intervene were “dismissed without prejudice.”

¶ 16

II. Instant Appeal

¶ 17 On March 3, 2010, plaintiffs filed a two-count complaint in the instant case. Count I alleges that Stroger’s decision to withhold money from the public defender’s office caused the layoff of the plaintiff APDs and support staff and “contravened the budget appropriations measure passed by the Cook County Board of Commissioners and state law.” Count I sought the payment of backpay to employees who were illegally laid-off. Count II alleges that plaintiffs were the beneficiaries of the consent decree entered into in the *Burnette* case and sought damages under the decree.

¶ 18 On April 5, 2010, defendants filed a motion to dismiss the complaint pursuant to section 2-615 of the Code. The motion claimed that count I failed to state a cause of action because (1) section 3-4008.1 of the Act did not create a private right of action, (2) the Illinois Public Labor Relations Board had exclusive jurisdiction over plaintiffs’ claims, (3) plaintiffs failed to exhaust their contract remedies, and (4) plaintiffs’ claims were time-barred. The motion further claimed that count II failed to state a cause of action because (1) the consent decree, which was created in 2009, could not have been violated in 2007, when Stroger’s alleged violations of the decree occurred; (2) plaintiffs lacked standing to enforce the consent decree; (3) any action to enforce

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the consent decree was required to be in the form of a contempt petition in the *Burnette* action and not as an independent claim; and (4) the claim was barred by *laches*.

¶ 19 On June 10, 2010, the trial court entered an order reading:

“IT IS ORDERED that the County’s motion is denied as to
Count I and granted as to Count II.

IT IS FURTHER ORDERED that the Defendants’ [sic]
may make a motion for Rule 308 language by July 12, 2010,
Plaintiff may respond by Aug 12 and Defendants may reply by
Aug[.] 26, 2010. This matter is set for hearing on Sept. 9, 2010[,]
at 10:35 am.”

¶ 20 On July 12, 2010, defendants filed a motion to certify questions of law pursuant to Illinois Supreme Court Rule 308 (eff. Feb. 1, 1994). They sought to certify four questions:

“1) Whether Section 3-4008.1 of the Counties Code

Creates a Private Right of Action.

2) Whether the Illinois Public Labor Relations Board Has
Exclusive Jurisdiction Over Plaintiffs’ Claims.

3) Whether Plaintiffs Were Required to Exhaust Their
Contract Remedies.

4) Whether Plaintiffs’ Claims Are Time-Barred.”

In their motion, defendants mentioned the outcome of their motion to dismiss: “Count I was dismissed by this Court. Defendants raised several reasons why Count II should also be

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dismissed. Any one of those reasons would have supported the dismissal of Count II in its entirety, and thus the dismissal of this action altogether.”

¶ 21 On July 13, 2010, defendants amended their motion but retained the same four questions that they proposed for certification. They amended the portion of the motion referring to the trial court’s ruling on the motion to dismiss: “The order of June 10, 2010 dismissed Count II, but not Count I. Defendants raised several reasons why Count I should also be dismissed. Any one of those reasons would have supported the dismissal of Count I in its entirety, and thus the dismissal of this action altogether.”

¶ 22 On August 11, 2010, plaintiffs filed a response in opposition to defendants’ motion to certify questions pursuant to Illinois Supreme Court Rule 308 (eff. Feb. 1, 1994). In their response, plaintiffs noted: “To avoid confusion, it should initially be noted that Defendants incorrectly describe the Court’s order of June 10, 2010, ***. This Court did not strike Plaintiffs’ Count I; it struck Plaintiffs’ Count II (by granting Defendants’ Motion to Dismiss as to Count II) and denied Defendants’ Motion to Dismiss as to Count I. Thus, Defendants are actually seeking to certify each of the four arguments they raised against Count I, not Count II.”

¶ 23 On September 13, 2010, in its order denying certification, the trial court recounted its reasoning in deciding defendants’ motion to dismiss. It noted, as to the question of whether the Illinois Labor Relations Board had exclusive jurisdiction:

“This Court acknowledged that the Illinois Labor Relations Board (the ‘Board’) does not have exclusive jurisdiction over all matters which regard labor grievances by state or county

employees. However, the Court found that initial jurisdiction over the present grievances is most appropriate with the Board, as the issues involved go directly to the salaries negotiated under the collective bargaining agreement. Thus, the Court found it lacked jurisdiction to review Count I.”

It denied the motion for certification, finding that “allowing the complete litigation of the issues rather than allowing an immediate appeal from the prior Order would best advance the ultimate termination of the litigation in the most efficient manner.”

¶ 24 On September 29, 2010, defendants filed a motion seeking clarification of the trial court’s order of September 13, 2010. Defendants noted that part of the trial court’s order seemed to indicate that it intended to dismiss count I for lack of jurisdiction, but another part indicated that the court intended to allow complete litigation of the issues, suggesting that it did not intend to dismiss count I.

¶ 25 On October 4, 2010, the court issued a written order on defendants’ motion for clarification. The court explained that, while its June 10, 2010, order stated that defendants’ motion to dismiss count I was denied, it “meant to state that Defendants’ motion to dismiss Count I was denied based on the ‘private cause of action’ argument and granted based on lack of jurisdiction.” Thus, the court noted:

“Regarding the present motion for clarification, the Court must revise, not the September 13, 2010 Order, but rather the June 10, 2010 Order. At this time, the Court grants Defendants’ motion

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to clarify and provides, *nunc pro tunc*, that the Defendants' prior motion to dismiss is denied based on lack of a private cause of action and granted based only on lack of jurisdiction."

¶ 26 On November 3, 2010, plaintiffs filed a notice of appeal appealing the dismissal of count I of their complaint.

¶ 27 ANALYSIS

¶ 28 While the trial court dismissed both counts of plaintiffs' complaint, plaintiffs focus on the dismissal of count I on appeal. Their notice of appeal, as well as the arguments raised on appeal, solely discuss the order dismissing count I and make no reference to count II. Accordingly, we consider whether count I was properly dismissed.

¶ 29 On appeal, plaintiffs make five arguments: (1) that the trial court abused its discretion by *sua sponte* reversing its order concerning the motion to dismiss, (2) that section 3-4008.1 of the Act permits a private action by plaintiffs for Stroger's alleged violations of the statute, (3) that plaintiffs' claim under the Act is not under the exclusive jurisdiction of the Illinois Labor Relations Board, (4) that plaintiffs were not required to exhaust the contractual grievance procedures under their collective bargaining agreement, and (5) that plaintiffs' claims are not time-barred. We note that the trial court expressly denied defendants' motion to dismiss based on the existence of a private right of action under section 3-4008.1 of the Act, granted the motion to dismiss for lack of jurisdiction, and did not make findings concerning the other three arguments, which were all raised by defendants in their motion to dismiss. However, we may affirm the decision of the trial court on any basis supported by the record, regardless of whether

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the basis was relied upon by the lower court. *Beacham v. Walker*, 231 Ill. 2d 51, 61 (2008).

¶ 30 I. Private Right of Action

¶ 31 We first address whether section 3-4008.1 of the Act provides a private right of action for plaintiffs. The trial court found that it did, and defendants argue that it does not. Since the issue is one of statutory interpretation, we review it *de novo*. See *Metzger v. DeRosa*, 209 Ill. 2d 30, 34 (2004) (applying *de novo* review in determining the existence of an implied private right of action under the Personnel Code). *De novo* consideration means we perform the same analysis that a trial judge would perform. *Kahn v. BDO Seidman, LLP*, 408 Ill. App. 3d 564, 578 (2011). Section 3-4008.1 of the Act provides:

“Assistants in counties over 1,000,000. The Public Defender in counties with a population over 1,000,000 shall appoint assistants, all duly licensed practitioners, as that Public Defender shall deem necessary for the proper discharge of the duties of the office, who shall serve at the pleasure of the Public Defender. The Public Defender shall also, in like manner, appoint clerks and other employees necessary for the transaction of the business of the office. The compensation of and the appropriate number of assistants, clerks, and employees shall be fixed by the County Board and paid out of the county treasury.” 55 ILCS 5/3-4008.1 (West 2006).

¶ 32 Initially, we address plaintiffs’ contention that in *Burnette*, we “already determined ***

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that Plaintiffs may bring a claim based on Defendant Stroger's violation of Section 3-4008.1."

Plaintiffs' argument is based primarily on two quotes from our opinion. In *Burnette*, we noted:

"During argument on the dismissal motion, the president's attorney conceded, in essence, the standing of those seeking to intervene, when he stated: 'Certainly those individuals who have potentially lost their positions or -- have lost their positions, they have standing to bring a case.'

" *Burnette*, 389 Ill. App. 3d at 325. We further stated that "we note that the petitions of those seeking to intervene are stayed, pending our ruling on these questions; and the president has not disputed their standing to contest terminations or furlough days." *Burnette*, 389 Ill. App. 3d at 332.

¶ 33 Plaintiffs read *Burnette* far too broadly. First, the statements plaintiffs claim "emphasize[] *** that Plaintiffs could maintain their own claim concerning Defendant Stroger's statutory violation," did not do so in any way. We merely noted that Stroger was not challenging the standing of AFSCME or the individual employees. Moreover, we also noted that the public defender was not asserting any rights on behalf of the individual employees. See *Burnette*, 389 Ill. App. 3d at 330 ("[I]n its appellate brief, the public defender states: 'While the complaint contains requests for relief on behalf of employees and the indigent, that relief was stricken and it has been repeatedly stated by the Public Defender that such relief is not requested.'"). The fact that we commented on the scope of the issues we were considering in no way translates to a holding on the issues that we explicitly were not considering. The rights of AFSCME and the individual employees were not before us in *Burnette*, and we did not decide any issues concerning them.

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¶ 34 Additionally, the quotes plaintiffs rely on concern statements made by Stroger and his counsel. Even if Stroger believed plaintiffs had standing to pursue claims concerning termination, Stroger did not specify in what forum or under which statute the employees had standing to contest their terminations or furloughs. The statements also concerned standing and did not concern whether the employees could pursue an action under section 3-4008.1. As we have noted, that issue was not before us at the time, and so we did not reach the issue at all. Accordingly, we now consider for the first time whether plaintiffs may pursue a claim for a violation of Section 3-4008.1 of the Act.

¶ 35 The Illinois Supreme Court has identified four factors to be considered in determining whether a private right of action may be implied from a statute. “Implication of a private right of action is appropriate if: (1) the plaintiff is a member of the class for whose benefit the statute was enacted; (2) the plaintiff’s injury is one the statute was designed to prevent; (3) a private right of action is consistent with the underlying purpose of the statute; and (4) implying a private right of action is necessary to provide an adequate remedy for violations of the statute.” *Fisher v. Lexington Health Care, Inc.*, 188 Ill. 2d 455, 460 (1999) (citing *Rodgers v. St. Mary’s Hospital of Decatur*, 149 Ill. 2d 302, 308 (1992), and *Corgan v. Muehling*, 143 Ill. 2d 296, 312-13 (1991)); *Metzger*, 209 Ill. 2d at 36. After applying the four factors, we find that there is no private right of action for individual APDs asserting a violation of section 3-4008.1 of the Act.

¶ 36 First, we consider whether plaintiffs are members of the class for whose benefit the statute was enacted. “When interpreting legislative enactments, we must read the statute as a whole and not as isolated provisions.” *Metzger*, 209 Ill. 2d at 37 (citing *Fisher*, 188 Ill. 2d at

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463). The legislative declaration in section 3-4000 of the Act provides an indication as to the purpose of the Act:

“Legislative declaration. The General Assembly recognizes that quality legal representation in criminal and related proceedings is a fundamental right of the people of the State of Illinois and that there should be no distinction in the availability of quality legal representation based upon a person’s inability to pay. Therefore, it is the intent of the General Assembly to provide for effective county public defender systems throughout the State and encourage the active and substantial participation of the private bar in the representation of indigent defendants.” 55 ILCS 5/3-4000 (West 2006).

The legislative declaration indicates that the Act as a whole was passed for the benefit of the people of Illinois generally and indigent defendants specifically. The rest of the Act contains statutes concerning creation of the office of public defender (55 ILCS 5/3-4001 through 3-4003 (West 2006)), appointment of the public defender and his or her qualifications (55 ILCS 5/3-4004 through 4004.2 (West 2006)), and the respective powers and duties of the public defender and the county board with respect to the office of public defender (55 ILCS 5/3-4006 through 3-4011 (West 2006)). Thus, the remainder of the Act supports the purpose stated in the legislative declaration: that the Act was enacted to benefit indigent defendants and the people of Illinois.

¶ 37 Additionally, section 3-4008.1 permits the public defender to determine whom to hire

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and whom to fire in order to effectuate the Act's greater purpose. As we stated in *Burnette* when finding that the public defender had standing to bring suit for violations of the statute, "the public defender has a statutory duty to render effective representation to the indigent defendants of Cook County. [Citations.] If he is unable to select whom to lay off and whom to retain, this interference with his ability to direct the affairs of his own office is a distinct and palpable injury to his ability to carry out his statutorily appointed duty of effective representation." *Burnette*, 389 Ill. App. 3d at 331. Thus, section 3-4008.1's specific purpose of allocating power between the public defender and the county board serves the Act's broader purpose of providing effective representation to indigent defendants.

¶ 38 Plaintiffs argue that section 3-4008.1 of the Act was designed to divide the power over personnel decisions in the public defender's office and "[s]ince plaintiffs were discharged by someone other than the person who had authority to do so, they are undoubtedly members of the class that was designed to be protected by the statute that forbids such personnel decisions." Plaintiffs do not explain why the fact that they were discharged by the wrong individual results in their "undoubtedly" being members of the class that the legislature intended to benefit, and we do not find their argument persuasive. There is no indication that the legislature intended to benefit the employees of the public defender's office by creating the Act.

¶ 39 The purpose of the statutory section cited by plaintiffs was to allocate power between the public defender and the county board. There is no indication that this power-sharing arrangement was intended to benefit the public defender's employees. As noted, the Act concerns indigent defendants and implementing a system to provide them with effective

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representation. The indigent defendants, as well as the people of Illinois as a whole, are those for whose benefit the Act was created, not the employees of the office created by the Act.

¶ 40 The Act is similar in that regard to the Personnel Code interpreted by the Illinois Supreme Court in *Metzger*, 209 Ill. 2d 30. In *Metzger*, the court considered whether there was a private right of action for a state employee who was the subject of retaliatory action for reporting wrongdoing of another state employee in violation of a provision of the Personnel Code.

Metzger, 209 Ill. 2d at 35-36. In its analysis, the court examined the purpose of the Personnel Code as a whole and determined that “the Personnel Code was primarily designed to benefit the state and the people of Illinois by ensuring competent employees for government bodies.”

Metzger, 209 Ill. 2d at 38. The court noted that the statute at issue protected state employees from retaliatory action, but that the protections provided under the statute were “incidental” to the Personnel Code’s overall purpose. *Metzger*, 209 Ill. 2d at 38. The court reasoned that, “[a]lthough [the statute at issue] protects state employees from retaliatory action, it does so to advance the Personnel Code’s central purpose of advancing the interest of the state and the public by encouraging state employees who become aware of wrongdoing by other state employees to report the wrongdoing.” *Metzger*, 209 Ill. 2d at 38. Accordingly, the court held that the employee was not a member of the primary class for whose benefit the statute was enacted. *Metzger*, 209 Ill. 2d at 38. See also *Fisher*, 188 Ill. 2d at 460-61 (finding that the Nursing Home Care Act was designed to protect nursing home residents, not nursing home employees who were subject to retaliatory conduct by their employers in violation of the statute).

¶ 41 Similarly, the Act at issue here was designed to enact a system to benefit indigent

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defendants. It was not enacted to provide employees of the public defender's office with a right of action when they are improperly terminated. In fact, the employees here have an even weaker argument than in *Metzger*, since the statute here does not purport to give them even "incidental" rights. *Metzger*, 209 Ill. 2d at 38. Since they were not members of the class for whose benefit the Act was created, plaintiffs do not have a private right of action against defendants.

¶ 42 Additionally, we do not find plaintiffs' argument that the consent decree supports a finding that plaintiffs were intended to be benefitted by the statute persuasive. Plaintiffs argue that Stroger admitted they were members of the class for whose benefit the statute was enacted because the consent decree was "entered into and intended to benefit the People of the State of Illinois, the People of Cook County, the Public Defender, and, collectively, the employees of the Office of the Cook County Public Defender." However, as we noted, we are not bound by Stroger's interpretation of the law. Even if Stroger believed plaintiffs were intended beneficiaries under the statute, that does not mean that our analysis of what the legislature intended must reach the same conclusion. Moreover, the fact that the consent decree was intended to benefit plaintiffs does not implicate whether the statute itself was intended to benefit plaintiffs.

¶ 43 Next, we turn to the second factor and we find that plaintiffs' injury was not one the statute was designed to prevent. As plaintiffs noted, section 3-4008.1 addresses the allocation of power between the public defender and the county board. An injury contemplated by the statute is one exemplified by *Burnette*: the president of the county board overstepping the bounds of his authority. The statute does not contemplate an action by the employees affected by that abuse of

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power.

¶ 44 We are not persuaded by plaintiffs' citation to *Corgan v. Muehling*, 143 Ill. 2d 296 (1991). In *Corgan*, the Illinois Supreme Court considered whether the Psychologist Registration Act impliedly allowed the plaintiff to maintain a private right of action for nuisance. *Corgan*, 143 Ill. 2d at 299. The court determined that the plaintiff, a former patient of the defendant's who had engaged in sexual conduct with the defendant " 'under the guise of therapy,' " was within the class of people the statute was designed to protect, since the underlying purpose of the Psychologist Registration Act was "to protect the public by prohibiting individuals from practicing or attempting to practice psychology without a valid certificate of registration." *Corgan*, 143 Ill. 2d at 300, 313. The court further held that "the injury she suffered at the hands of an unqualified practitioner was within the range of injuries the statute was designed to prevent." *Corgan*, 143 Ill. 2d at 313.

¶ 45 We find *Corgan* to be inapposite. In *Corgan*, the plaintiff was the patient of an unqualified psychologist, which was the class of people intended to be protected under the statute. Additionally, the plaintiff's injury was the result of being treated by an unqualified psychologist, which was the type of injury the statute was designed to prevent. In the case at bar, however, section 3-4008.1 of the Act does not contemplate injury to employees of the public defender's office. At most, it contemplates that the public defender and its clients would be injured by an abuse of power by the county board. Thus, we cannot find that the injury alleged by plaintiffs is the type of injury the Act was designed to prevent.

¶ 46 Considering the third factor, we do not find that a private right of action is consistent

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with the underlying purpose of the statute. Plaintiffs argue that “there can be no argument that it would be inconsistent with the purpose of Section 3-4008.1 for a court to determine the respective powers of the Public Defender and the Cook County Board president.” We agree with plaintiffs’ statement, as we did that very thing in *Burnette*. However, a private cause of action for the employees does not implicate the allocation of powers between the public defender and the county board, nor does it advance the overall purpose of the Act as a whole, which is to provide representation for the indigent. Accordingly, we cannot find that recognizing a private right of action would be consistent with the purpose of the statute.

¶ 47 Finally, implying a private right of action is not necessary to provide an adequate remedy for violations of the statute. If the statute is violated, the public defender can pursue a cause of action for the violation, as occurred in *Burnette*. There is no reason for the employees to be permitted to maintain a separate cause of action under the statute for the violation, when they may seek redress for their firing or furloughing under their collective bargaining agreement before the Illinois Labor Relations Board.

¶ 48 We are also not persuaded by plaintiffs’ reliance on *Rodgers* to demonstrate that the lack of remedial mechanism in the Act shows that the legislature intended to provide a private cause of action. In *Rodgers*, the Illinois Supreme Court found that the X-Ray Retention Act provided a patient a private right of action against a hospital who failed to preserve x-rays for use in litigation in violation of the statute. *Rodgers*, 149 Ill. 2d at 310. In considering whether implying a private right of action was necessary to provide an adequate remedy for violations of the statute, the court addressed the hospital’s argument that the statute was merely an

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administrative regulation to be enforced exclusively by the Department of Public Health. The court noted that nothing in the statute suggested the legislature intended to limit the remedies to administrative ones and that administrative remedies would be inadequate for those injured in violation of the statute. *Rodgers*, 149 Ill. 2d at 308-09. The court further reasoned that “the threat of liability is a much more efficient method of enforcing the regulation than requiring the Public Health Department to hire inspectors to monitor the compliance of hospitals with the provisions of the [statute].” *Rodgers*, 149 Ill. 2d at 309. Thus, the court found that “it is reasonable to believe” that the legislature intended to provide those protected by the statute a private right of action against hospitals for damages caused by violations of the statute. *Rodgers*, 149 Ill. 2d at 309.

¶ 49 The statute at issue in the case at bar is quite different from the one in *Rodgers*. Here, although the statute does not provide for a specific remedial mechanism, there is not the same issue of efficiency as there was in *Rodgers*. The Act, and section 3-4008.1 in particular, implicates a limited number of people. If there is a violation of section 3-4008.1, the public defender will be aware of the violation and can bring suit, as he did. By contrast, the statute at issue in *Rodgers* required all hospitals to retain essentially all patient x-rays for at least five years, with the x-rays retained longer in cases where the hospital was informed that there was pending litigation. *Rodgers*, 149 Ill. 2d at 307 (quoting Ill. Rev. Stat. 1987, ch. 111 1/2, par. 157-11). For the Public Health Department to enforce the statute, as the Illinois Supreme Court noted, it would need to hire inspectors to monitor hospitals, which is much less efficient than permitting the relatively few individuals injured by the violation of the statute to bring suit. See

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Rodgers, 149 Ill. 2d at 309. Accordingly, we find that the fourth factor also does not support the implication of a private right of action for plaintiffs.

¶ 50 We cannot agree with plaintiffs' argument that in *Burnette*, "Defendant Stroger affirmatively prevented the Public Defender from obtaining a full remedy on behalf of Plaintiffs, by arguing that the employees themselves (such as Plaintiffs) were the proper parties." In *Burnette*, the public defender made it clear that he was not pursuing any relief on behalf of the individual employees. Moreover, plaintiffs could have pursued an action based on the collective bargaining agreement. Thus, plaintiffs were not prevented from obtaining a remedy for their improper terminations.

¶ 51 After considering all four factors for implication of a private right of action, we find that there is no private right of action for plaintiffs under section 3-4008.1 of the Act. Accordingly, we affirm the trial court's dismissal.

¶ 52 II. Jurisdiction

¶ 53 Since we have found that section 3-4008.1 of the Act does not provide plaintiffs with a private right of action, any relief plaintiffs seek will arise from the collective bargaining agreement, which is under the primary jurisdiction of the Illinois Labor Relations Board. See 5 ILCS 315/5(b) (West 2006) ("The Local Panel [of the Illinois Labor Relations Board] shall have jurisdiction over collective bargaining matters between employee organizations and units of local government with a population in excess of 2 million persons"). Additionally, since we have determined that there is a basis for affirming the trial court's dismissal of count I, we do not consider plaintiffs' other arguments in support of reversal.

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¶ 54

CONCLUSION

¶ 55 We find that section 3-4008.1 of the Act does not provide a private right of action for employees of the public defender's office who were terminated by someone without the authority to do so pursuant to the Act.

¶ 56 Affirmed.