

# HB4157



## 101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4157

Introduced 1/22/2020, by Rep. Jay Hoffman

### SYNOPSIS AS INTRODUCED:

725 ILCS 5/124A-20

Amends the Code of Criminal Procedure of 1963. Makes a technical change in the Section concerning assessment waivers.

LRB101 17819 RLC 67250 b

A BILL FOR

1 AN ACT concerning fines, fees, and assessments.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by changing Section 124A-20 as follows:

6 (725 ILCS 5/124A-20)

7 Sec. 124A-20. Assessment waiver.

8 (a) As used in this ~~this~~ Section:

9 "Assessments" means any costs imposed on a criminal  
10 defendant under Article 15 of the Criminal and Traffic  
11 Assessment Act, but does not include violation of the  
12 Illinois Vehicle Code assessments.

13 "Indigent person" means any person who meets one or  
14 more of the following criteria:

15 (1) He or she is receiving assistance under one or  
16 more of the following means-based governmental public  
17 benefits programs: Supplemental Security Income; Aid  
18 to the Aged, Blind and Disabled; Temporary Assistance  
19 for Needy Families; Supplemental Nutrition Assistance  
20 Program; General Assistance; Transitional Assistance;  
21 or State Children and Family Assistance.

22 (2) His or her available personal income is 200% or  
23 less of the current poverty level, unless the

1 applicant's assets that are not exempt under Part 9 or  
2 10 of Article XII of the Code of Civil Procedure are of  
3 a nature and value that the court determines that the  
4 applicant is able to pay the assessments.

5 (3) He or she is, in the discretion of the court,  
6 unable to proceed in an action with payment of  
7 assessments and whose payment of those assessments  
8 would result in substantial hardship to the person or  
9 his or her family.

10 "Poverty level" means the current poverty level as  
11 established by the United States Department of Health and  
12 Human Services.

13 (b) Upon the application of any defendant, after the  
14 commencement of an action, but no later than 30 days after  
15 sentencing:

16 (1) If the court finds that the applicant is an  
17 indigent person, the court shall grant the applicant a full  
18 assessment waiver exempting him or her from the payment of  
19 any assessments.

20 (2) The court shall grant the applicant a partial  
21 assessment as follows:

22 (A) 75% of all assessments shall be waived if the  
23 applicant's available income is greater than 200% but  
24 no more than 250% of the poverty level, unless the  
25 applicant's assets that are not exempt under Part 9 or  
26 10 of Article XII of the Code of Civil Procedure are

1           such that the applicant is able, without undue  
2           hardship, to pay the total assessments.

3           (B) 50% of all assessments shall be waived if the  
4           applicant's available income is greater than 250% but  
5           no more than 300% of the poverty level, unless the  
6           applicant's assets that are not exempt under Part 9 or  
7           10 of Article XII of the Code of Civil Procedure are  
8           such that the court determines that the applicant is  
9           able, without undue hardship, to pay a greater portion  
10          of the assessments.

11          (C) 25% of all assessments shall be waived if the  
12          applicant's available income is greater than 300% but  
13          no more than 400% of the poverty level, unless the  
14          applicant's assets that are not exempt under Part 9 or  
15          10 of Article XII of the Code of Civil Procedure are  
16          such that the court determines that the applicant is  
17          able, without undue hardship, to pay a greater portion  
18          of the assessments.

19          (c) An application for a waiver of assessments shall be in  
20          writing, signed by the defendant or, if the defendant is a  
21          minor, by another person having knowledge of the facts, and  
22          filed no later than 30 days after sentencing. The contents of  
23          the application for a waiver of assessments, and the procedure  
24          for deciding the applications, shall be established by Supreme  
25          Court Rule. Factors to consider in evaluating an application  
26          shall include:

1           (1) the applicant's receipt of needs based  
2 governmental public benefits, including Supplemental  
3 Security Income (SSI); Aid to the Aged, Blind and Disabled  
4 (ADBID); Temporary Assistance for Needy Families (TANF);  
5 Supplemental Nutrition Assistance Program (SNAP or "food  
6 stamps"); General Assistance; Transitional Assistance; or  
7 State Children and Family Assistance;

8           (2) the employment status of the applicant and amount  
9 of monthly income, if any;

10           (3) income received from the applicant's pension,  
11 Social Security benefits, unemployment benefits, and other  
12 sources;

13           (4) income received by the applicant from other  
14 household members;

15           (5) the applicant's monthly expenses, including rent,  
16 home mortgage, other mortgage, utilities, food, medical,  
17 vehicle, childcare, debts, child support, and other  
18 expenses; and

19           (6) financial affidavits or other similar supporting  
20 documentation provided by the applicant showing that  
21 payment of the imposed assessments would result in  
22 substantial hardship to the applicant or the applicant's  
23 family.

24           (d) The clerk of court shall provide the application for a  
25 waiver of assessments to any defendant who indicates an  
26 inability to pay the assessments. The clerk of the court shall

1 post in a conspicuous place in the courthouse a notice, no  
2 smaller than 8.5 x 11 inches and using no smaller than 30-point  
3 typeface printed in English and in Spanish, advising criminal  
4 defendants they may ask the court for a waiver of any court  
5 ordered assessments. The notice shall be substantially as  
6 follows:

7 "If you are unable to pay the required assessments, you  
8 may ask the court to waive payment of them. Ask the clerk  
9 of the court for forms."

10 (e) For good cause shown, the court may allow an applicant  
11 whose application is denied or who receives a partial  
12 assessment waiver to defer payment of the assessments, make  
13 installment payments, or make payment upon reasonable terms and  
14 conditions stated in the order.

15 (f) Nothing in this Section shall be construed to affect  
16 the right of a party to court-appointed counsel, as authorized  
17 by any other provision of law or by the rules of the Illinois  
18 Supreme Court.

19 (g) The provisions of this Section are severable under  
20 Section 1.31 of the Statute on Statutes.

21 (Source: P.A. 100-987, eff. 7-1-19.)