

# HB4287



## 100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4287

by Rep. Will Guzzardi

### SYNOPSIS AS INTRODUCED:

725 ILCS 5/113-3

from Ch. 38, par. 113-3

Amends the Code of Criminal Procedure of 1963. Provides that the posting of bail by a defendant shall not be a factor when considering if he or she qualifies for the appointment of a Public Defender.

LRB100 15428 SLF 30419 b

A BILL FOR

1 AN ACT concerning criminal 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 Criminal Procedure of 1963 is  
5 amended by changing Section 113-3 as follows:

6 (725 ILCS 5/113-3) (from Ch. 38, par. 113-3)

7 Sec. 113-3. (a) Every person charged with an offense shall  
8 be allowed counsel before pleading to the charge. If the  
9 defendant desires counsel and has been unable to obtain same  
10 before arraignment the court shall recess court or continue the  
11 cause for a reasonable time to permit defendant to obtain  
12 counsel and consult with him before pleading to the charge. If  
13 the accused is a dissolved corporation, and is not represented  
14 by counsel, the court may, in the interest of justice, appoint  
15 as counsel a licensed attorney of this State.

16 (b) In all cases, except where the penalty is a fine only,  
17 if the court determines that the defendant is indigent and  
18 desires counsel, the Public Defender shall be appointed as  
19 counsel. The posting of bail by the defendant shall not be a  
20 factor when considering if he or she qualifies for the  
21 appointment of a Public Defender. If there is no Public  
22 Defender in the county or if the defendant requests counsel  
23 other than the Public Defender and the court finds that the

1 rights of the defendant will be prejudiced by the appointment  
2 of the Public Defender, the court shall appoint as counsel a  
3 licensed attorney at law of this State, except that in a county  
4 having a population of 2,000,000 or more the Public Defender  
5 shall be appointed as counsel in all misdemeanor cases where  
6 the defendant is indigent and desires counsel unless the case  
7 involves multiple defendants, in which case the court may  
8 appoint counsel other than the Public Defender for the  
9 additional defendants. The court shall require an affidavit  
10 signed by any defendant who requests court-appointed counsel.  
11 Such affidavit shall be in the form established by the Supreme  
12 Court containing sufficient information to ascertain the  
13 assets and liabilities of that defendant. The Court may direct  
14 the Clerk of the Circuit Court to assist the defendant in the  
15 completion of the affidavit. Any person who knowingly files  
16 such affidavit containing false information concerning his  
17 assets and liabilities shall be liable to the county where the  
18 case, in which such false affidavit is filed, is pending for  
19 the reasonable value of the services rendered by the public  
20 defender or other court-appointed counsel in the case to the  
21 extent that such services were unjustly or falsely procured.

22 (c) Upon the filing with the court of a verified statement  
23 of services rendered the court shall order the county treasurer  
24 of the county of trial to pay counsel other than the Public  
25 Defender a reasonable fee. The court shall consider all  
26 relevant circumstances, including but not limited to the time

1 spent while court is in session, other time spent in  
2 representing the defendant, and expenses reasonably incurred  
3 by counsel. In counties with a population greater than  
4 2,000,000, the court shall order the county treasurer of the  
5 county of trial to pay counsel other than the Public Defender a  
6 reasonable fee stated in the order and based upon a rate of  
7 compensation of not more than \$40 for each hour spent while  
8 court is in session and not more than \$30 for each hour  
9 otherwise spent representing a defendant, and such  
10 compensation shall not exceed \$150 for each defendant  
11 represented in misdemeanor cases and \$1250 in felony cases, in  
12 addition to expenses reasonably incurred as hereinafter in this  
13 Section provided, except that, in extraordinary circumstances,  
14 payment in excess of the limits herein stated may be made if  
15 the trial court certifies that such payment is necessary to  
16 provide fair compensation for protracted representation. A  
17 trial court may entertain the filing of this verified statement  
18 before the termination of the cause, and may order the  
19 provisional payment of sums during the pendency of the cause.

20 (d) In capital cases, in addition to counsel, if the court  
21 determines that the defendant is indigent the court may, upon  
22 the filing with the court of a verified statement of services  
23 rendered, order the county Treasurer of the county of trial to  
24 pay necessary expert witnesses for defendant reasonable  
25 compensation stated in the order not to exceed \$250 for each  
26 defendant.

1           (e) If the court in any county having a population greater  
2 than 2,000,000 determines that the defendant is indigent the  
3 court may, upon the filing with the court of a verified  
4 statement of such expenses, order the county treasurer of the  
5 county of trial, in such counties having a population greater  
6 than 2,000,000 to pay the general expenses of the trial  
7 incurred by the defendant not to exceed \$50 for each defendant.

8           (f) The provisions of this Section relating to appointment  
9 of counsel, compensation of counsel, and payment of expenses in  
10 capital cases apply except when the compensation and expenses  
11 are being provided under the Capital Crimes Litigation Act.

12       (Source: P.A. 91-589, eff. 1-1-00.)