



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1959

Introduced 2/15/2019, by Sen. Elgie R. Sims, Jr.

SYNOPSIS AS INTRODUCED:

735 ILCS 5/5-105

from Ch. 110, par. 5-105

Provides that the Act may be referred to as the Reduced Filing Fees for Seniors and Veterans Act. Contains a statement of legislative purpose. Amends the Code of Civil Procedure. Provides that beginning January 1, 2020, the Supreme Court may, by rule, implement a program to offer a reduced filing fee of 50% the rate for the filing of civil cases by a person, regardless of the income of the person, who is either a: (1) senior citizen, aged 65 and older; or (2) member of the United States Armed Forces, the Illinois National Guard, or the Reserves of the United States Armed Forces. Provides that the applicant shall apply at the time of filing and present his or her valid State identification or driver's license or armed forces identification card. Effective immediately.

LRB101 10640 LNS 55746 b

1 AN ACT concerning civil law.

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

4 Section 1. References to Act; purpose.

5 (a) This Act may be referred to as the Reduced Filing Fees
6 for Seniors and Veterans Act.

7 (b) The General Assembly acknowledges the contribution of
8 residents of this State classified as senior citizens, aged 65
9 and older, and active and inactive duty members of the United
10 States Armed Forces, the Illinois National Guard, or the
11 Reserves of the United States Armed Forces. In recognition of
12 their services, the courts in this State will offer reduced
13 filing fees for the filing of civil cases in this State.

14 Section 5. The Code of Civil Procedure is amended by
15 changing Section 5-105 as follows:

16 (735 ILCS 5/5-105) (from Ch. 110, par. 5-105)

17 (Text of Section before amendment by P.A. 100-987 and
18 100-1161)

19 Sec. 5-105. Leave to sue or defend as an indigent person.

20 (a) As used in this Section:

21 (1) "Fees, costs, and charges" means payments imposed
22 on a party in connection with the prosecution or defense of

1 a civil action, including, but not limited to: filing fees;
2 appearance fees; fees for service of process and other
3 papers served either within or outside this State,
4 including service by publication pursuant to Section 2-206
5 of this Code and publication of necessary legal notices;
6 motion fees; jury demand fees; charges for participation
7 in, or attendance at, any mandatory process or procedure
8 including, but not limited to, conciliation, mediation,
9 arbitration, counseling, evaluation, "Children First",
10 "Focus on Children" or similar programs; fees for
11 supplementary proceedings; charges for translation
12 services; guardian ad litem fees; charges for certified
13 copies of court documents; and all other processes and
14 procedures deemed by the court to be necessary to commence,
15 prosecute, defend, or enforce relief in a civil action.

16 (2) "Indigent person" means any person who meets one or
17 more of the following criteria:

18 (i) He or she is receiving assistance under one or
19 more of the following public benefits programs:
20 Supplemental Security Income (SSI), Aid to the Aged,
21 Blind and Disabled (AABD), Temporary Assistance for
22 Needy Families (TANF), Food Stamps, General
23 Assistance, Transitional Assistance, or State Children
24 and Family Assistance.

25 (ii) His or her available income is 125% or less of
26 the current poverty level as established by the United

1 States Department of Health and Human Services, unless
2 the applicant's assets that are not exempt under Part 9
3 or 10 of Article XII of this Code are of a nature and
4 value that the court determines that the applicant is
5 able to pay the fees, costs, and charges.

6 (iii) He or she is, in the discretion of the court,
7 unable to proceed in an action without payment of fees,
8 costs, and charges and whose payment of those fees,
9 costs, and charges would result in substantial
10 hardship to the person or his or her family.

11 (iv) He or she is an indigent person pursuant to
12 Section 5-105.5 of this Code.

13 (b) On the application of any person, before, or after the
14 commencement of an action, a court, on finding that the
15 applicant is an indigent person, shall grant the applicant
16 leave to sue or defend the action without payment of the fees,
17 costs, and charges of the action.

18 (c) An application for leave to sue or defend an action as
19 an indigent person shall be in writing and supported by the
20 affidavit of the applicant or, if the applicant is a minor or
21 an incompetent adult, by the affidavit of another person having
22 knowledge of the facts. The contents of the affidavit shall be
23 established by Supreme Court Rule. The court shall provide,
24 through the office of the clerk of the court, simplified forms
25 consistent with the requirements of this Section and applicable
26 Supreme Court Rules to any person seeking to sue or defend an

1 action who indicates an inability to pay the fees, costs, and
2 charges of the action. The application and supporting affidavit
3 may be incorporated into one simplified form. The clerk of the
4 court shall post in a conspicuous place in the courthouse a
5 notice no smaller than 8.5 x 11 inches, using no smaller than
6 30-point typeface printed in English and in Spanish, advising
7 the public that they may ask the court for permission to sue or
8 defend a civil action without payment of fees, costs, and
9 charges. The notice shall be substantially as follows:

10 "If you are unable to pay the fees, costs, and charges
11 of an action you may ask the court to allow you to proceed
12 without paying them. Ask the clerk of the court for forms."

13 (d) The court shall rule on applications under this Section
14 in a timely manner based on information contained in the
15 application unless the court, in its discretion, requires the
16 applicant to personally appear to explain or clarify
17 information contained in the application. If the court finds
18 that the applicant is an indigent person, the court shall enter
19 an order permitting the applicant to sue or defend without
20 payment of fees, costs, or charges. If the application is
21 denied, the court shall enter an order to that effect stating
22 the specific reasons for the denial. The clerk of the court
23 shall promptly mail or deliver a copy of the order to the
24 applicant.

25 (e) The clerk of the court shall not refuse to accept and
26 file any complaint, appearance, or other paper presented by the

1 applicant if accompanied by an application to sue or defend in
2 forma pauperis, and those papers shall be considered filed on
3 the date the application is presented. If the application is
4 denied, the order shall state a date certain by which the
5 necessary fees, costs, and charges must be paid. The court, for
6 good cause shown, may allow an applicant whose application is
7 denied to defer payment of fees, costs, and charges, make
8 installment payments, or make payment upon reasonable terms and
9 conditions stated in the order. The court may dismiss the
10 claims or defenses of any party failing to pay the fees, costs,
11 or charges within the time and in the manner ordered by the
12 court. A determination concerning an application to sue or
13 defend in forma pauperis shall not be construed as a ruling on
14 the merits.

15 (f) The court may order an indigent person to pay all or a
16 portion of the fees, costs, or charges waived pursuant to this
17 Section out of moneys recovered by the indigent person pursuant
18 to a judgment or settlement resulting from the civil action.
19 However, nothing in this Section shall be construed to limit
20 the authority of a court to order another party to the action
21 to pay the fees, costs, or charges of the action.

22 (g) A court, in its discretion, may appoint counsel to
23 represent an indigent person, and that counsel shall perform
24 his or her duties without fees, charges, or reward.

25 (h) Nothing in this Section shall be construed to affect
26 the right of a party to sue or defend an action in forma

1 pauperis without the payment of fees, costs, or charges, or the
2 right of a party to court-appointed counsel, as authorized by
3 any other provision of law or by the rules of the Illinois
4 Supreme Court.

5 (i) The provisions of this Section are severable under
6 Section 1.31 of the Statute on Statutes.

7 (Source: P.A. 97-689, eff. 6-14-12; 97-813, eff. 7-13-12.)

8 (Text of Section after amendment by P.A. 100-987 and
9 100-1161)

10 Sec. 5-105. Waiver of court fees, costs, and charges.

11 (a) As used in this Section:

12 (1) "Fees, costs, and charges" means payments imposed
13 on a party in connection with the prosecution or defense of
14 a civil action, including, but not limited to: fees set
15 forth in Section 27.1b of the Clerks of Courts Act; fees
16 for service of process and other papers served either
17 within or outside this State, including service by
18 publication pursuant to Section 2-206 of this Code and
19 publication of necessary legal notices; motion fees;
20 charges for participation in, or attendance at, any
21 mandatory process or procedure including, but not limited
22 to, conciliation, mediation, arbitration, counseling,
23 evaluation, "Children First", "Focus on Children" or
24 similar programs; fees for supplementary proceedings;
25 charges for translation services; guardian ad litem fees;

1 and all other processes and procedures deemed by the court
2 to be necessary to commence, prosecute, defend, or enforce
3 relief in a civil action.

4 (2) "Indigent person" means any person who meets one or
5 more of the following criteria:

6 (i) He or she is receiving assistance under one or
7 more of the following means-based governmental public
8 benefits programs: Supplemental Security Income (SSI),
9 Aid to the Aged, Blind and Disabled (AABD), Temporary
10 Assistance for Needy Families (TANF), Supplemental
11 Nutrition Assistance Program (SNAP), General
12 Assistance, Transitional Assistance, or State Children
13 and Family Assistance.

14 (ii) His or her available personal income is 125%
15 or less of the current poverty level, unless the
16 applicant's assets that are not exempt under Part 9 or
17 10 of Article XII of this Code are of a nature and
18 value that the court determines that the applicant is
19 able to pay the fees, costs, and charges.

20 (iii) He or she is, in the discretion of the court,
21 unable to proceed in an action without payment of fees,
22 costs, and charges and whose payment of those fees,
23 costs, and charges would result in substantial
24 hardship to the person or his or her family.

25 (iv) He or she is an indigent person pursuant to
26 Section 5-105.5 of this Code.

1 (3) "Poverty level" means the current poverty level as
2 established by the United States Department of Health and
3 Human Services.

4 (b) On the application of any person, before or after the
5 commencement of an action:

6 (1) If the court finds that the applicant is an
7 indigent person, the court shall grant the applicant a full
8 fees, costs, and charges waiver entitling him or her to sue
9 or defend the action without payment of any of the fees,
10 costs, and charges.

11 (2) If the court finds that the applicant satisfies any
12 of the criteria contained in items (i), (ii), or (iii) of
13 this subdivision (b)(2), the court shall grant the
14 applicant a partial fees, costs, and charges waiver
15 entitling him or her to sue or defend the action upon
16 payment of the applicable percentage of the assessments,
17 costs, and charges of the action, as follows:

18 (i) the court shall waive 75% of all fees, costs,
19 and charges if the available income of the applicant is
20 greater than 125% but does not exceed 150% of the
21 poverty level, unless the assets of the applicant that
22 are not exempt under Part 9 or 10 of Article XII of
23 this Code are such that the applicant is able, without
24 undue hardship, to pay a greater portion of the fees,
25 costs, and charges;

26 (ii) the court shall waive 50% of all fees, costs,

1 and charges if the available income is greater than
2 150% but does not exceed 175% of the poverty level,
3 unless the assets of the applicant that are not exempt
4 under Part 9 or 10 of Article XII of this Code are such
5 that the applicant is able, without undue hardship, to
6 pay a greater portion of the fees, costs, and charges;
7 and

8 (iii) the court shall waive 25% of all fees, costs,
9 and charges if the available income of the applicant is
10 greater than 175% but does not exceed 200% of the
11 current poverty level, unless the assets of the
12 applicant that are not exempt under Part 9 or 10 of
13 Article XII of this Code are such that the applicant is
14 able, without undue hardship, to pay a greater portion
15 of the fees, costs, and charges.

16 (c) An application for waiver of court fees, costs, and
17 charges shall be in writing and signed by the applicant, or, if
18 the applicant is a minor or an incompetent adult, by another
19 person having knowledge of the facts. The contents of the
20 application for waiver of court fees, costs, and charges, and
21 the procedure for the decision of the applications, shall be
22 established by Supreme Court Rule. Factors to consider in
23 evaluating an application shall include:

24 (1) the applicant's receipt of needs based
25 governmental public benefits, including Supplemental
26 Security Income (SSI); Aid to the Aged, Blind and Disabled

1 (ADBD); Temporary Assistance for Needy Families (TANF);
2 Supplemental Nutrition Assistance Program (SNAP or "food
3 stamps"); General Assistance; Transitional Assistance; or
4 State Children and Family Assistance;

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

7 (3) income received from the applicant's pension,
8 Social Security benefits, unemployment benefits, and other
9 sources;

10 (4) income received by the applicant from other
11 household members;

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

16 (6) financial affidavits or other similar supporting
17 documentation provided by the applicant showing that
18 payment of the imposed fees, costs, and charges would
19 result in substantial hardship to the applicant or the
20 applicant's family.

21 (c-5) The court shall provide, through the office of the
22 clerk of the court, the application for waiver of court fees,
23 costs, and charges to any person seeking to sue or defend an
24 action who indicates an inability to pay the fees, costs, and
25 charges of the action. The clerk of the court shall post in a
26 conspicuous place in the courthouse a notice no smaller than

1 8.5 x 11 inches, using no smaller than 30-point typeface
2 printed in English and in Spanish, advising the public that
3 they may ask the court for permission to sue or defend a civil
4 action without payment of fees, costs, and charges. The notice
5 shall be substantially as follows:

6 "If you are unable to pay the fees, costs, and charges
7 of an action you may ask the court to allow you to proceed
8 without paying them. Ask the clerk of the court for forms."

9 (d) (Blank).

10 (e) The clerk of the court shall not refuse to accept and
11 file any complaint, appearance, or other paper presented by the
12 applicant if accompanied by an application for waiver of court
13 fees, costs, and charges, and those papers shall be considered
14 filed on the date the application is presented. If the
15 application is denied or a partial fees, costs, and charges
16 waiver is granted, the order shall state a date certain by
17 which the necessary fees, costs, and charges must be paid. For
18 good cause shown, the court may allow an applicant who receives
19 a partial fees, costs, and charges waiver to defer payment of
20 fees, costs, and charges, make installment payments, or make
21 payment upon reasonable terms and conditions stated in the
22 order. The court may dismiss the claims or strike the defenses
23 of any party failing to pay the fees, costs, and charges within
24 the time and in the manner ordered by the court. A judicial
25 ruling on an application for waiver of court assessments does
26 not constitute a decision of a substantial issue in the case

1 under Section 2-1001 of this Code.

2 (f) The order granting a full or partial fees, costs, and
3 charges waiver shall expire after one year. Upon expiration of
4 the waiver, or a reasonable period of time before expiration,
5 the party whose fees, costs, and charges were waived may file
6 another application for waiver and the court shall consider the
7 application in accordance with the applicable Supreme Court
8 Rule.

9 (f-5) If, before or at the time of final disposition of the
10 case, the court obtains information, including information
11 from the court file, suggesting that a person whose fees,
12 costs, and charges were initially waived was not entitled to a
13 full or partial waiver at the time of application, the court
14 may require the person to appear at a court hearing by giving
15 the applicant no less than 10 days' written notice of the
16 hearing and the specific reasons why the initial waiver might
17 be reconsidered. The court may require the applicant to provide
18 reasonably available evidence, including financial
19 information, to support his or her eligibility for the waiver,
20 but the court shall not require submission of information that
21 is unrelated to the criteria for eligibility and application
22 requirements set forth in subdivision (b) (1) or (b) (2) of this
23 Section. If the court finds that the person was not initially
24 entitled to any waiver, the person shall pay all fees, costs,
25 and charges relating to the civil action, including any
26 previously waived fees, costs, and charges. The order may state

1 terms of payment in accordance with subsection (e). The court
2 shall not conduct a hearing under this subsection more often
3 than once every 6 months.

4 (f-10) If, before or at the time of final disposition of
5 the case, the court obtains information, including information
6 from the court file, suggesting that a person who received a
7 full or partial waiver has experienced a change in financial
8 condition so that he or she is no longer eligible for that
9 waiver, the court may require the person to appear at a court
10 hearing by giving the applicant no less than 10 days' written
11 notice of the hearing and the specific reasons why the waiver
12 might be reconsidered. The court may require the person to
13 provide reasonably available evidence, including financial
14 information, to support his or her continued eligibility for
15 the waiver, but shall not require submission of information
16 that is unrelated to the criteria for eligibility and
17 application requirements set forth in subdivisions (b)(1) and
18 (b)(2) of this Section. If the court enters an order finding
19 that the person is no longer entitled to a waiver, or is
20 entitled to a partial waiver different than that which the
21 person had previously received, the person shall pay the
22 requisite fees, costs, and charges from the date of the order
23 going forward. The order may state terms of payment in
24 accordance with subsection (e) of this Section. The court shall
25 not conduct a hearing under this subsection more often than
26 once every 6 months.

1 (g) A court, in its discretion, may appoint counsel to
2 represent an indigent person, and that counsel shall perform
3 his or her duties without fees, charges, or reward.

4 (h) Nothing in this Section shall be construed to affect
5 the right of a party to sue or defend an action in forma
6 pauperis without the payment of fees, costs, charges, or the
7 right of a party to court-appointed counsel, as authorized by
8 any other provision of law or by the rules of the Illinois
9 Supreme Court. Nothing in this Section shall be construed to
10 limit the authority of a court to order another party to the
11 action to pay the fees, costs, and charges of the action.

12 (h-5) If a party is represented by a civil legal services
13 provider or an attorney in a court-sponsored pro bono program
14 as defined in Section 5-105.5 of this Code, the attorney
15 representing that party shall file a certification with the
16 court in accordance with Supreme Court Rule 298 and that party
17 shall be allowed to sue or defend without payment of fees,
18 costs, and charges without filing an application under this
19 Section.

20 (h-10) If an attorney files an appearance on behalf of a
21 person whose fees, costs, and charges were initially waived
22 under this Section, the attorney must pay all fees, costs, and
23 charges relating to the civil action, including any previously
24 waived fees, costs, and charges, unless the attorney is either
25 a civil legal services provider, representing his or her client
26 as part of a court-sponsored pro bono program as defined in

1 Section 5-105.1 of this Code, or appearing under a limited
2 scope appearance in accordance with Supreme Court Rule
3 13(c) (6).

4 (i) The provisions of this Section are severable under
5 Section 1.31 of the Statute on Statutes.

6 (j) Beginning January 1 2020, the Supreme Court may, by
7 rule, implement a program to offer a reduced filing fee of 50%
8 the rate for the filing of civil cases by a person, regardless
9 of the income of the person, who is either a: (1) senior
10 citizen, aged 65 and older; or (2) member of the United States
11 Armed Forces, the Illinois National Guard, or the Reserves of
12 the United States Armed Forces. An applicant for a fee waiver
13 shall apply at the time of filing and present his or her valid
14 State identification or driver's license or armed forces
15 identification card. The identification card is required at the
16 time of filing each civil case.

17 (Source: P.A. 100-987, eff. 7-1-19; 100-1161, eff. 7-1-19.)

18 Section 95. No acceleration or delay. Where this Act makes
19 changes in a statute that is represented in this Act by text
20 that is not yet or no longer in effect (for example, a Section
21 represented by multiple versions), the use of that text does
22 not accelerate or delay the taking effect of (i) the changes
23 made by this Act or (ii) provisions derived from any other
24 Public Act.

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.