



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0626

Introduced 2/24/2021, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

705 ILCS 135/5-20
725 ILCS 5/124A-20

Amends the Criminal and Traffic Assessment Act. Deletes language providing that one hour of public or community service shall be equivalent to \$4 of assessment. Provides instead that the period of public service necessary to satisfy the assessment shall be set by the court, but in no event shall the hourly rate of the public or community service performed by the defendant be equivalent to less than the minimum wage of the State. Provides that the performance of public or community service may (rather than shall) be a condition of probation, conditional discharge, or supervision and shall be in addition to the performance of any other period of public or community service ordered by the court or required by law. Amends the Code of Criminal Procedure of 1963. In a provision regarding assessment waiver, removes language from the definition of "assessments" excluding assessments tied to violations of the Illinois Vehicle Code. Effective immediately.

LRB102 14033 LNS 19385 b

1 AN ACT concerning courts.

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

4 Section 5. The Criminal and Traffic Assessment Act is
5 amended by changing Section 5-20 as follows:

6 (705 ILCS 135/5-20)

7 (Section scheduled to be repealed on January 1, 2022)

8 Sec. 5-20. Credit; time served; community service.

9 (a) Any credit for time served prior to sentencing that
10 reduces the amount a defendant is required to pay shall be
11 deducted from the fine, if any, ordered by the court.

12 (b) Excluding any ordered conditional assessment, a
13 defendant who has been ordered to pay an assessment may
14 petition the court to convert all or part of the assessment
15 into court-approved public or community service. The period of
16 public service necessary to satisfy the assessment shall be
17 set by the court, but in no event shall the hourly rate of the
18 public or community service performed by the defendant be
19 equivalent to less than the minimum wage of this State. The
20 court may adjust the hourly rate of public or community
21 service in accordance with this amendatory Act of the 102nd
22 General Assembly for any mandatory assessments imposed between
23 July 1, 2019 and the effective date of this amendatory Act of

1 the 102nd General Assembly. ~~One hour of public or community~~
2 ~~service shall be equivalent to \$4 of assessment.~~ The
3 performance of this public or community service may ~~shall~~ be a
4 condition of probation, conditional discharge, or supervision
5 and shall be in addition to the performance of any other period
6 of public or community service ordered by the court or
7 required by law.

8 (Source: P.A. 100-987, eff. 7-1-19; 101-408, eff. 1-1-20.)

9 Section 10. The Code of Criminal Procedure of 1963 is
10 amended by changing Section 124A-20 as follows:

11 (725 ILCS 5/124A-20)

12 Sec. 124A-20. Assessment waiver.

13 (a) As used in this Section:

14 "Assessments" means any costs imposed on a criminal
15 defendant under Article 15 of the Criminal and Traffic
16 Assessment Act, ~~but does not include violation of the Illinois~~
17 ~~Vehicle Code assessments.~~

18 "Indigent person" means any person who meets one or more
19 of the following criteria:

20 (1) He or she is receiving assistance under one or
21 more of the following means-based governmental public
22 benefits programs: Supplemental Security Income; Aid to
23 the Aged, Blind and Disabled; Temporary Assistance for
24 Needy Families; Supplemental Nutrition Assistance Program;

1 General Assistance; Transitional Assistance; or State
2 Children and Family Assistance.

3 (2) His or her available personal income is 200% or
4 less of the current poverty level, unless the applicant's
5 assets that are not exempt under Part 9 or 10 of Article
6 XII of the Code of Civil Procedure are of a nature and
7 value that the court determines that the applicant is able
8 to pay the assessments.

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

13 "Poverty level" means the current poverty level as
14 established by the United States Department of Health and
15 Human Services.

16 (b) Upon the application of any defendant, after the
17 commencement of an action, but no later than 30 days after
18 sentencing:

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

23 (2) The court shall grant the applicant a partial
24 assessment as follows:

25 (A) 75% of all assessments shall be waived if the
26 applicant's available income is greater than 200% but

1 no more than 250% of the poverty level, unless the
2 applicant's assets that are not exempt under Part 9 or
3 10 of Article XII of the Code of Civil Procedure are
4 such that the applicant is able, without undue
5 hardship, to pay the total assessments.

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

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

22 (c) An application for a waiver of assessments shall be in
23 writing, signed by the defendant or, if the defendant is a
24 minor, by another person having knowledge of the facts, and
25 filed no later than 30 days after sentencing. The contents of
26 the application for a waiver of assessments, and the procedure

1 for deciding the applications, shall be established by Supreme
2 Court Rule. Factors to consider in evaluating an application
3 shall include:

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

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

13 (3) income received from the applicant's pension,
14 Social Security benefits, unemployment benefits, and other
15 sources;

16 (4) income received by the applicant from other
17 household members;

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

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

1 (d) The clerk of court shall provide the application for a
2 waiver of assessments to any defendant who indicates an
3 inability to pay the assessments. The clerk of the court shall
4 post in a conspicuous place in the courthouse a notice, no
5 smaller than 8.5 x 11 inches and using no smaller than 30-point
6 typeface printed in English and in Spanish, advising criminal
7 defendants they may ask the court for a waiver of any court
8 ordered assessments. The notice shall be substantially as
9 follows:

10 "If you are unable to pay the required assessments,
11 you may ask the court to waive payment of them. Ask the
12 clerk of the court for forms."

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

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

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

24 (Source: P.A. 100-987, eff. 7-1-19; revised 8-28-20.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.