

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7 (Section scheduled to be repealed on January 1, 2022)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 except as provided in subsection
18 (a-5).

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

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

1 Needy Families; Supplemental Nutrition Assistance Program;
2 General Assistance; Transitional Assistance; or State
3 Children and Family Assistance.

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

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

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

17 (a-5) In a county having a population of more than
18 3,000,000, "assessments" means any costs imposed on a criminal
19 defendant under Article 15 of the Criminal and Traffic
20 Assessment Act, including violation of the Illinois Vehicle
21 Code assessments. This subsection is inoperative on and after
22 July 1, 2024.

23 (b) For criminal offenses reflected in Schedules 1, 3, 4,
24 5, 7, and 8 of Article 15 of the Criminal and Traffic
25 Assessment Act, upon ~~Upon~~ the application of any defendant,
26 after the commencement of an action, but no later than 30 days

1 after sentencing:

2 (1) If the court finds that the applicant is an
3 indigent person, the court shall grant the applicant a
4 full assessment waiver exempting him or her from the
5 payment of any assessments.

6 (2) The court shall grant the applicant a partial
7 assessment as follows:

8 (A) 75% of all assessments shall be waived if the
9 applicant's available income is greater than 200% but
10 no more than 250% of the poverty level, unless the
11 applicant's assets that are not exempt under Part 9 or
12 10 of Article XII of the Code of Civil Procedure are
13 such that the applicant is able, without undue
14 hardship, to pay the total assessments.

15 (B) 50% of all assessments shall be waived if the
16 applicant's available income is greater than 250% but
17 no more than 300% of the poverty level, unless the
18 applicant's assets that are not exempt under Part 9 or
19 10 of Article XII of the Code of Civil Procedure are
20 such that the court determines that the applicant is
21 able, without undue hardship, to pay a greater portion
22 of the assessments.

23 (C) 25% of all assessments shall be waived if the
24 applicant's available income is greater than 300% but
25 no more than 400% of the poverty level, unless the
26 applicant's assets that are not exempt under Part 9 or

1 10 of Article XII of the Code of Civil Procedure are
2 such that the court determines that the applicant is
3 able, without undue hardship, to pay a greater portion
4 of the assessments.

5 (b-5) For traffic and petty offenses reflected in
6 Schedules 2, 6, 9, 10, and 13 of Article 15 of the Criminal and
7 Traffic Assessment Act, upon the application of any defendant,
8 after the commencement of an action, but no later than 30 days
9 after sentencing, the court shall grant the applicant a
10 partial assessment as follows:

11 (1) 50% of all assessments shall be waived if the
12 court finds that the applicant is an indigent person or if
13 the applicant's available income is not greater than 200%
14 of the poverty level, unless the applicant's assets that
15 are not exempt under Part 9 or 10 of Article XII of the
16 Code of Civil Procedure are such that the applicant is
17 able, without undue hardship, to pay the total
18 assessments.

19 (2) 37.5% of all assessments shall be waived if the
20 applicant's available income is greater than 200% but no
21 more than 250% of the poverty level, unless the
22 applicant's assets that are not exempt under Part 9 or 10
23 of Article XII of the Code of Civil Procedure are such that
24 the applicant is able, without undue hardship, to pay the
25 total assessments.

26 (3) 25% of all assessments shall be waived if the

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

8 (4) 12.5% of all assessments shall be waived if the
9 applicant's available income is greater than 300% but no
10 more than 400% of the poverty level, unless the
11 applicant's assets that are not exempt under Part 9 or 10
12 of Article XII of the Code of Civil Procedure are such that
13 the court determines that the applicant is able, without
14 undue hardship, to pay a greater portion of the
15 assessments.

16 (c) An application for a waiver of assessments shall be in
17 writing, signed by the defendant or, if the defendant is a
18 minor, by another person having knowledge of the facts, and
19 filed no later than 30 days after sentencing. The contents of
20 the application for a waiver of assessments, and the procedure
21 for deciding the applications, shall be established by Supreme
22 Court Rule. Factors to consider in evaluating an application
23 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 (AABD ~~ADDD~~); Temporary Assistance for Needy Families
2 (TANF); Supplemental Nutrition Assistance Program (SNAP or
3 "food stamps"); General Assistance; Transitional
4 Assistance; or 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 assessments would result in
19 substantial hardship to the applicant or the applicant's
20 family.

21 (d) The clerk of court shall provide the application for a
22 waiver of assessments to any defendant who indicates an
23 inability to pay the assessments. The clerk of the court shall
24 post in a conspicuous place in the courthouse a notice, no
25 smaller than 8.5 x 11 inches and using no smaller than 30-point
26 typeface printed in English and in Spanish, advising criminal

1 defendants they may ask the court for a waiver of any court
2 ordered assessments. The notice shall be substantially as
3 follows:

4 "If you are unable to pay the required assessments,
5 you may ask the court to waive payment of them. Ask the
6 clerk of the court for forms."

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

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

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

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

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.