



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2055

Introduced 2/7/2023, by Rep. William "Will" Davis

SYNOPSIS AS INTRODUCED:

705 ILCS 105/27.3f

Amends the Clerk of Courts Act. Provides that each circuit court clerk shall charge and collect a fee on all new cases (rather than all matters) filed in probate cases in the amount of \$100. Removes language providing that no fee shall be imposed against an indigent person who is, in the discretion of the court, unable to proceed in an action without payment of fees, costs, and charges and whose payment of those fees, costs, and charges would result in substantial hardship to the person or his or her family. Provides that no fee shall be imposed against an indigent person who is otherwise unable to pay the fee because it would cause substantial hardship to the person. Makes conforming changes.

LRB103 24806 LNS 51137 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 Clerks of Courts Act is amended by changing
5 Section 27.3f as follows:

6 (705 ILCS 105/27.3f)

7 Sec. 27.3f. Guardianship and advocacy operations fee.

8 (a) As used in this Section, "guardianship and advocacy"
9 means the guardianship and advocacy services provided by the
10 Guardianship and Advocacy Commission and defined in the
11 Guardianship and Advocacy Act. Viable public guardianship and
12 advocacy programs, including the public guardianship programs
13 created and supervised in probate proceedings in the Illinois
14 courts, are essential to the administration of justice and
15 ensure that incapacitated persons and their estates are
16 protected. To defray the expense of maintaining and operating
17 the divisions and programs of the Guardianship and Advocacy
18 Commission and to support viable guardianship and advocacy
19 programs throughout Illinois, each circuit court clerk shall
20 charge and collect a fee on all new cases ~~matters~~ filed in
21 probate cases in the amount of \$100 in accordance with this
22 Section, but no fees shall be assessed against the State
23 Guardian, any State agency under the jurisdiction of the

1 Governor, any public guardian, or any State's Attorney.

2 (b) No fee specified in this Section shall be imposed in
3 any minor guardianship established under Article XI of the
4 Probate Act of 1975, or against an indigent person who, upon
5 petition, is found by the court to meet. ~~An indigent person~~
6 ~~shall include any person who meets~~ one or more of the following
7 criteria:

8 (1) He or she is receiving assistance under one or
9 more of the following public benefits programs:
10 Supplemental Security Income (SSI), Aid to the Aged,
11 Blind, and Disabled (AABD), Temporary Assistance for Needy
12 Families (TANF), Supplemental Nutrition Assistance Program
13 (SNAP) (formerly Food Stamps), General Assistance, State
14 Transitional Assistance, or State Children and Family
15 Assistance.

16 (2) His or her available income is 125% or less of the
17 current poverty level as established by the United States
18 Department of Health and Human Services, unless the
19 applicant's assets that are not exempt under Part 9 or 10
20 of Article XII of the Code of Civil Procedure are of a
21 nature and value that the court determines that the
22 applicant is able to pay the fees, costs, and charges.

23 (3) (Blank). ~~He or she is, in the discretion of the~~
24 ~~court, unable to proceed in an action without payment of~~
25 ~~fees, costs, and charges and whose payment of those fees,~~
26 ~~costs, and charges would result in substantial hardship to~~

1 ~~the person or his or her family.~~

2 (4) He or she is an indigent person pursuant to
3 Section 5-105.5 of the Code of Civil Procedure, providing
4 that an "indigent person" means a person whose income is
5 125% or less of the current official federal poverty
6 guidelines or who is otherwise eligible to receive civil
7 legal services under the Legal Services Corporation Act of
8 1974.

9 (5) He or she is otherwise unable to pay the fee
10 because it would cause substantial hardship to the person.

11 (c) The clerk is entitled to receive the fee specified in
12 this Section, which shall be paid in advance, and managed by
13 the clerk as set out in paragraph (2). ~~, except that, for good~~
14 ~~cause shown, the court may suspend, reduce, or release the~~
15 ~~costs payable under this Section.~~

16 (1) (Blank). ~~For administration of the estate of a~~
17 ~~decedent (whether testate or intestate) or of a missing~~
18 ~~person, a fee of \$100.~~

19 (2) The guardianship and advocacy operations fee, as
20 outlined in subsection (a) ~~this Section~~, shall be in
21 addition to all other fees and charges and assessable as
22 costs. Five percent of the fee collected under subsection
23 (a) shall be retained by the clerk for deposit into the
24 Circuit Court Clerk Operation and Administrative Fund to
25 defray costs of collection and 95% of the fee shall be
26 disbursed within 60 days after receipt by the circuit

1 clerk to the State Treasurer for deposit by the State
2 Treasurer into the Guardianship and Advocacy Fund.

3 (Source: P.A. 97-1093, eff. 1-1-13.)