

HB3525



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3525

Introduced 2/17/2023, by Rep. Dennis Tipsword, Jr.

SYNOPSIS AS INTRODUCED:

725 ILCS 5/124A-20

Amends the Code of Criminal Procedure of 1963. Deletes a provision that if the court finds that the applicant is an indigent person, the court shall grant the applicant a full assessment waiver exempting him or her from the payment of any assessments. Provides that upon proof of need by the applicant, the court shall grant the applicant a partial assessment.

LRB103 29684 RLC 57608 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 124A-20 as follows:

6 (725 ILCS 5/124A-20)

7 Sec. 124A-20. Assessment waiver.

8 (a) As used in this Section:

9 "Assessments" means any costs imposed on a criminal
10 defendant under Article 15 of the Criminal and Traffic
11 Assessment Act, but does not include violation of the Illinois
12 Vehicle Code assessments except as provided in subsection
13 (a-5).

14 "Indigent person" means any person who meets one or more
15 of the following criteria:

16 (1) He or she is receiving assistance under one or
17 more of the following means-based governmental public
18 benefits programs: Supplemental Security Income; Aid to
19 the Aged, Blind and Disabled; Temporary Assistance for
20 Needy Families; Supplemental Nutrition Assistance Program;
21 General Assistance; Transitional Assistance; or State
22 Children and Family Assistance.

23 (2) His or her available personal income is 200% or

1 less of the current poverty level, unless the applicant's
2 assets that are not exempt under Part 9 or 10 of Article
3 XII of the Code of Civil Procedure are of a nature and
4 value that the court determines that the applicant is able
5 to pay the assessments.

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

10 "Poverty level" means the current poverty level as
11 established by the United States Department of Health and
12 Human Services.

13 (a-5) In a county having a population of more than
14 3,000,000, "assessments" means any costs imposed on a criminal
15 defendant under Article 15 of the Criminal and Traffic
16 Assessment Act, including violation of the Illinois Vehicle
17 Code assessments. This subsection is inoperative on and after
18 July 1, 2024.

19 (b) For criminal offenses reflected in Schedules 1, 3, 4,
20 5, 7, and 8 of Article 15 of the Criminal and Traffic
21 Assessment Act, upon the application of any defendant, after
22 the commencement of an action, but no later than 30 days after
23 sentencing:

24 (1) (Blank). ~~If the court finds that the applicant is~~
25 ~~an indigent person, the court shall grant the applicant a~~
26 ~~full assessment waiver exempting him or her from the~~

1 ~~payment of any assessments.~~

2 (2) Upon proof of need by the applicant, the ~~The~~ court
3 shall grant the applicant a partial assessment as follows:

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

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

19 (C) 25% of all assessments shall be waived if the
20 applicant's available income is greater than 300% but
21 no more than 400% of the poverty level, unless the
22 applicant's assets that are not exempt under Part 9 or
23 10 of Article XII of the Code of Civil Procedure are
24 such that the court determines that the applicant is
25 able, without undue hardship, to pay a greater portion
26 of the assessments.

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

7 (1) 50% of all assessments shall be waived if the
8 court finds that the applicant is an indigent person or if
9 the applicant's available income is not greater than 200%
10 of the poverty level, unless the applicant's assets that
11 are not exempt under Part 9 or 10 of Article XII of the
12 Code of Civil Procedure are such that the applicant is
13 able, without undue hardship, to pay the total
14 assessments.

15 (2) 37.5% of all assessments shall be waived if the
16 applicant's available income is greater than 200% but no
17 more than 250% of the poverty level, unless the
18 applicant's assets that are not exempt under Part 9 or 10
19 of Article XII of the Code of Civil Procedure are such that
20 the applicant is able, without undue hardship, to pay the
21 total assessments.

22 (3) 25% of all assessments shall be waived if the
23 applicant's available income is greater than 250% but no
24 more than 300% of the poverty level, unless the
25 applicant's assets that are not exempt under Part 9 or 10
26 of Article XII of the Code of Civil Procedure are such that

1 the court determines that the applicant is able, without
2 undue hardship, to pay a greater portion of the
3 assessments.

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

12 (c) An application for a waiver of assessments shall be in
13 writing, signed by the defendant or, if the defendant is a
14 minor, by another person having knowledge of the facts, and
15 filed no later than 30 days after sentencing. The contents of
16 the application for a waiver of assessments, and the procedure
17 for deciding the applications, shall be established by Supreme
18 Court Rule. Factors to consider in evaluating an application
19 shall include:

20 (1) the applicant's receipt of needs based
21 governmental public benefits, including Supplemental
22 Security Income (SSI); Aid to the Aged, Blind and Disabled
23 (AABD); Temporary Assistance for Needy Families (TANF);
24 Supplemental Nutrition Assistance Program (SNAP or "food
25 stamps"); General Assistance; Transitional Assistance; or
26 State Children and Family Assistance;

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

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

6 (4) income received by the applicant from other
7 household members;

8 (5) the applicant's monthly expenses, including rent,
9 home mortgage, other mortgage, utilities, food, medical,
10 vehicle, childcare, debts, child support, and other
11 expenses; and

12 (6) financial affidavits or other similar supporting
13 documentation provided by the applicant showing that
14 payment of the imposed assessments would result in
15 substantial hardship to the applicant or the applicant's
16 family.

17 (d) The clerk of court shall provide the application for a
18 partial waiver of assessments to any defendant who indicates
19 an inability to pay the assessments. The clerk of the court
20 shall post in a conspicuous place in the courthouse a notice,
21 no smaller than 8.5 x 11 inches and using no smaller than
22 30-point typeface printed in English and in Spanish, advising
23 criminal defendants they may ask the court for a partial
24 waiver of any court ordered assessments. The notice shall be
25 substantially as follows:

26 "If you are unable to pay the required assessments,

1 you may ask the court to partially waive payment of them.

2 Ask the clerk of the court for forms."

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

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

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

14 (Source: P.A. 102-558, eff. 8-20-21; 102-620, eff. 8-27-21.)