

1 AN ACT concerning the death penalty.

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

4 Section 5. The Counties Code is amended by changing Section
5 3-9005 as follows:

6 (55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)
7 Sec. 3-9005. Powers and duties of State's attorney.

8 (a) The duty of each State's attorney shall be:

9 (1) To commence and prosecute all actions, suits,
10 indictments and prosecutions, civil and criminal, in the
11 circuit court for his county, in which the people of the
12 State or county may be concerned.

13 (2) To prosecute all forfeited bonds and
14 recognizances, and all actions and proceedings for the
15 recovery of debts, revenues, moneys, fines, penalties and
16 forfeitures accruing to the State or his county, or to any
17 school district or road district in his county; also, to
18 prosecute all suits in his county against railroad or
19 transportation companies, which may be prosecuted in the
20 name of the People of the State of Illinois.

21 (3) To commence and prosecute all actions and
22 proceedings brought by any county officer in his official
23 capacity.

24 (4) To defend all actions and proceedings brought
25 against his county, or against any county or State officer,
26 in his official capacity, within his county.

27 (5) To attend the examination of all persons brought
28 before any judge on habeas corpus, when the prosecution is
29 in his county.

30 (6) To attend before judges and prosecute charges of
31 felony or misdemeanor, for which the offender is required
32 to be recognized to appear before the circuit court, when

1 in his power so to do.

2 (7) To give his opinion, without fee or reward, to any
3 county officer in his county, upon any question or law
4 relating to any criminal or other matter, in which the
5 people or the county may be concerned.

6 (8) To assist the attorney general whenever it may be
7 necessary, and in cases of appeal from his county to the
8 Supreme Court, to which it is the duty of the attorney
9 general to attend, he shall furnish the attorney general at
10 least 10 days before such is due to be filed, a manuscript
11 of a proposed statement, brief and argument to be printed
12 and filed on behalf of the people, prepared in accordance
13 with the rules of the Supreme Court. However, if such
14 brief, argument or other document is due to be filed by law
15 or order of court within this 10 day period, then the
16 State's attorney shall furnish such as soon as may be
17 reasonable.

18 (9) To pay all moneys received by him in trust, without
19 delay, to the officer who by law is entitled to the custody
20 thereof.

21 (10) To notify, by first class mail, complaining
22 witnesses of the ultimate disposition of the cases arising
23 from an indictment or an information.

24 (11) To perform such other and further duties as may,
25 from time to time, be enjoined on him by law.

26 (12) To appear in all proceedings by collectors of
27 taxes against delinquent taxpayers for judgments to sell
28 real estate, and see that all the necessary preliminary
29 steps have been legally taken to make the judgment legal
30 and binding.

31 (b) The State's Attorney of each county shall have
32 authority to appoint one or more special investigators to serve
33 subpoenas, make return of process and conduct investigations
34 which assist the State's Attorney in the performance of his
35 duties. A special investigator shall not carry firearms except
36 with permission of the State's Attorney and only while carrying

1 appropriate identification indicating his employment and in
2 the performance of his assigned duties.

3 Subject to the qualifications set forth in this subsection,
4 special investigators shall be peace officers and shall have
5 all the powers possessed by investigators under the State's
6 Attorneys Appellate Prosecutor's Act.

7 No special investigator employed by the State's Attorney
8 shall have peace officer status or exercise police powers
9 unless he or she successfully completes the basic police
10 training course mandated and approved by the Illinois Law
11 Enforcement Training Standards Board or such board waives the
12 training requirement by reason of the special investigator's
13 prior law enforcement experience or training or both. Any
14 State's Attorney appointing a special investigator shall
15 consult with all affected local police agencies, to the extent
16 consistent with the public interest, if the special
17 investigator is assigned to areas within that agency's
18 jurisdiction.

19 Before a person is appointed as a special investigator, his
20 fingerprints shall be taken and transmitted to the Department
21 of State Police. The Department shall examine its records and
22 submit to the State's Attorney of the county in which the
23 investigator seeks appointment any conviction information
24 concerning the person on file with the Department. No person
25 shall be appointed as a special investigator if he has been
26 convicted of a felony or other offense involving moral
27 turpitude. A special investigator shall be paid a salary and be
28 reimbursed for actual expenses incurred in performing his
29 assigned duties. The county board shall approve the salary and
30 actual expenses and appropriate the salary and expenses in the
31 manner prescribed by law or ordinance.

32 (c) The State's Attorney may request and receive from
33 employers, labor unions, telephone companies, and utility
34 companies location information concerning putative fathers and
35 noncustodial parents for the purpose of establishing a child's
36 paternity or establishing, enforcing, or modifying a child

1 support obligation. In this subsection, "location information"
2 means information about (i) the physical whereabouts of a
3 putative father or noncustodial parent, (ii) the putative
4 father or noncustodial parent's employer, or (iii) the salary,
5 wages, and other compensation paid and the health insurance
6 coverage provided to the putative father or noncustodial parent
7 by the employer of the putative father or noncustodial parent
8 or by a labor union of which the putative father or
9 noncustodial parent is a member.

10 (d) For each State fiscal year, the State's Attorney of
11 Cook County shall appear before the General Assembly and
12 request appropriations to be made from the Capital Litigation
13 Trust Fund to the State Treasurer for the purpose of providing
14 assistance in the prosecution of capital cases in Cook County
15 and for the purpose of providing assistance to the State in
16 post-conviction proceedings in capital cases under Article 122
17 of the Code of Criminal Procedure of 1963 and in relation to
18 petitions filed under Section 2-1401 of the Code of Civil
19 Procedure in relation to capital cases. The State's Attorney
20 may appear before the General Assembly at other times during
21 the State's fiscal year to request supplemental appropriations
22 from the Trust Fund to the State Treasurer.

23 (e) The State's Attorney shall have the authority to enter
24 into a written agreement with the Department of Revenue for
25 pursuit of civil liability under Section 17-1a of the Criminal
26 Code of 1961 against persons who have issued to the Department
27 checks or other orders in violation of the provisions of
28 paragraph (d) of subsection (B) of Section 17-1 of the Criminal
29 Code of 1961, with the Department to retain the amount owing
30 upon the dishonored check or order along with the dishonored
31 check fee imposed under the Uniform Penalty and Interest Act,
32 with the balance of damages, fees, and costs collected under
33 Section 17-1a of the Criminal Code of 1961 to be retained by
34 the State's Attorney. The agreement shall not affect the
35 allocation of fines and costs imposed in any criminal
36 prosecution.

1 (Source: P.A. 91-589, eff. 1-1-00; 92-492, eff. 1-1-02.)

2 Section 10. The Code of Criminal Procedure of 1963 is
3 amended by changing Section 122-1 as follows:

4 (725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

5 Sec. 122-1. Petition in the trial court.

6 (a) Any person imprisoned in the penitentiary may institute
7 a proceeding under this Article if the person asserts that:

8 (1) in the proceedings which resulted in his or her
9 conviction there was a substantial denial of his or her
10 rights under the Constitution of the United States or of
11 the State of Illinois or both; or

12 (2) the death penalty was imposed and there is newly
13 discovered evidence not available to the person at the time
14 of the proceeding that resulted in his or her conviction
15 that establishes a substantial basis to believe that the
16 defendant is actually innocent by clear and convincing
17 evidence.

18 (a-5) A proceeding under paragraph (2) of subsection (a)
19 may be commenced within a reasonable period of time after the
20 person's conviction notwithstanding any other provisions of
21 this Article. In such a proceeding regarding actual innocence,
22 if the court determines the petition is frivolous or is
23 patently without merit, it shall dismiss the petition in a
24 written order, specifying the findings of fact and conclusions
25 of law it made in reaching its decision. Such order of
26 dismissal is a final judgment and shall be served upon the
27 petitioner by certified mail within 10 days of its entry.

28 (b) The proceeding shall be commenced by filing with the
29 clerk of the court in which the conviction took place a
30 petition (together with a copy thereof) verified by affidavit.
31 Petitioner shall also serve another copy upon the State's
32 Attorney by any of the methods provided in Rule 7 of the
33 Supreme Court. The clerk shall docket the petition for
34 consideration by the court pursuant to Section 122-2.1 upon his

1 or her receipt thereof and bring the same promptly to the
2 attention of the court.

3 (c) Except as otherwise provided in subsection (a-5), if
4 the petitioner is under sentence of death and a petition for
5 writ of certiorari is filed, no proceedings under this Article
6 shall be commenced more than 6 months after the conclusion of
7 proceedings in the United States Supreme Court ~~denial of a~~
8 ~~petition for certiorari to the United States Supreme Court on~~
9 ~~direct appeal, or more than 6 months from the date for filing~~
10 ~~such a petition if none is filed~~, unless the petitioner alleges
11 facts showing that the delay was not due to his or her culpable
12 negligence. If a petition for certiorari is not filed, no
13 proceedings under this Article shall be commenced more than 6
14 months from the date for filing a certiorari petition, unless
15 the petitioner alleges facts showing that the delay was not due
16 to his or her culpable negligence.

17 When a defendant has a sentence other than death, no
18 proceedings under this Article shall be commenced more than 6
19 months after the conclusion of proceedings in the United States
20 Supreme Court ~~denial of the Petition for Leave to Appeal to the~~
21 ~~Illinois Supreme Court, or more than 6 months from the date for~~
22 ~~filing such a petition if none is filed~~, unless the petitioner
23 alleges facts showing that the delay was not due to his or her
24 culpable negligence. If a petition for certiorari is not filed,
25 no proceedings under this Article shall be commenced more than
26 6 months from the date for filing a certiorari petition, unless
27 the petitioner alleges facts showing that the delay was not due
28 to his or her culpable negligence. If a defendant does not file
29 a direct appeal, the post-conviction petition shall be filed no
30 later than 3 years from the date of conviction, unless the
31 petitioner alleges facts showing that the delay was not due to
32 his or her culpable negligence.

33 This limitation does not apply to a petition advancing a
34 claim of actual innocence.

35 (d) A person seeking relief by filing a petition under this
36 Section must specify in the petition or its heading that it is

1 filed under this Section. A trial court that has received a
2 petition complaining of a conviction or sentence that fails to
3 specify in the petition or its heading that it is filed under
4 this Section need not evaluate the petition to determine
5 whether it could otherwise have stated some grounds for relief
6 under this Article.

7 (e) A proceeding under this Article may not be commenced on
8 behalf of a defendant who has been sentenced to death without
9 the written consent of the defendant, unless the defendant,
10 because of a mental or physical condition, is incapable of
11 asserting his or her own claim.

12 (f) Only one petition may be filed by a petitioner under
13 this Article without leave of the court. Leave of court may be
14 granted only if a petitioner demonstrates cause for his or her
15 failure to bring the claim in his or her initial
16 post-conviction proceedings and prejudice results from that
17 failure. For purposes of this subsection (f): (1) a prisoner
18 shows cause by identifying an objective factor that impeded his
19 or her ability to raise a specific claim during his or her
20 initial post-conviction proceedings; and (2) a prisoner shows
21 prejudice by demonstrating that the claim not raised during his
22 or her initial post-conviction proceedings so infected the
23 trial that the resulting conviction or sentence violated due
24 process.

25 (Source: P.A. 93-493, eff. 1-1-04; 93-605, eff. 11-19-03;
26 revised 12-9-03.)

27 Section 15. The State Appellate Defender Act is amended by
28 changing Section 10 as follows:

29 (725 ILCS 105/10) (from Ch. 38, par. 208-10)

30 Sec. 10. Powers and duties of State Appellate Defender.

31 (a) The State Appellate Defender shall represent indigent
32 persons on appeal in criminal and delinquent minor proceedings,
33 when appointed to do so by a court under a Supreme Court Rule
34 or law of this State.

1 (b) The State Appellate Defender shall submit a budget for
2 the approval of the State Appellate Defender Commission.

3 (c) The State Appellate Defender may:

4 (1) maintain a panel of private attorneys available to
5 serve as counsel on a case basis;

6 (2) establish programs, alone or in conjunction with
7 law schools, for the purpose of utilizing volunteer law
8 students as legal assistants;

9 (3) cooperate and consult with state agencies,
10 professional associations, and other groups concerning the
11 causes of criminal conduct, the rehabilitation and
12 correction of persons charged with and convicted of crime,
13 the administration of criminal justice, and, in counties of
14 less than 1,000,000 population, study, design, develop and
15 implement model systems for the delivery of trial level
16 defender services, and make an annual report to the General
17 Assembly;

18 (4) provide investigative services to appointed
19 counsel and county public defenders;

20 (5) in cases in which a death sentence is an authorized
21 disposition, provide trial counsel with the assistance of
22 expert witnesses, investigators, and mitigation
23 specialists from funds appropriated to the State Appellate
24 Defender specifically for that purpose by the General
25 Assembly. The Office of State Appellate Defender shall not
26 be appointed to serve as trial counsel in capital cases.

27 (d) For each State fiscal year, the State Appellate
28 Defender shall appear before the General Assembly and request
29 appropriations to be made from the Capital Litigation Trust
30 Fund to the State Treasurer for the purpose of providing
31 defense assistance in capital cases outside of Cook County and
32 for expenses incurred by the the State Appellate Defender in
33 representing petitioners in capital cases in post-conviction
34 proceedings under Article 122 of the Code of Criminal Procedure
35 of 1963 and in relation to petitions filed under Section 2-1401
36 of the Code of Civil Procedure in relation to capital cases and

1 for the representation of those petitioners by attorneys
2 approved by or contracted with the State Appellate Defender.

3 The State Appellate Defender may appear before the General
4 Assembly at other times during the State's fiscal year to
5 request supplemental appropriations from the Trust Fund to the
6 State Treasurer.

7 (e) The requirement for reporting to the General Assembly
8 shall be satisfied by filing copies of the report with the
9 Speaker, the Minority Leader and the Clerk of the House of
10 Representatives and the President, the Minority Leader and the
11 Secretary of the Senate and the Legislative Research Unit, as
12 required by Section 3.1 of the General Assembly Organization
13 Act and filing such additional copies with the State Government
14 Report Distribution Center for the General Assembly as is
15 required under paragraph (t) of Section 7 of the State Library
16 Act.

17 (Source: P.A. 91-589, eff. 1-1-00.)

18 Section 20. The Capital Crimes Litigation Act is amended by
19 changing Section 15 as follows:

20 (725 ILCS 124/15)

21 Sec. 15. Capital Litigation Trust Fund.

22 (a) The Capital Litigation Trust Fund is created as a
23 special fund in the State Treasury. The Trust Fund shall be
24 administered by the State Treasurer to provide moneys for the
25 appropriations to be made, grants to be awarded, and
26 compensation and expenses to be paid under this Act. All
27 interest earned from the investment or deposit of moneys
28 accumulated in the Trust Fund shall, under Section 4.1 of the
29 State Finance Act, be deposited into the Trust Fund.

30 (b) Moneys deposited into the Trust Fund shall not be
31 considered general revenue of the State of Illinois.

32 (c) Moneys deposited into the Trust Fund shall be used
33 exclusively for the purposes of providing funding for the
34 prosecution and defense of capital cases and for providing

1 funding for post-conviction proceedings in capital cases under
2 Article 122 of the Code of Criminal Procedure of 1963 and in
3 relation to petitions filed under Section 2-1401 of the Code of
4 Civil Procedure in relation to capital cases as provided in
5 this Act and shall not be appropriated, loaned, or in any
6 manner transferred to the General Revenue Fund of the State of
7 Illinois.

8 (d) Every fiscal year the State Treasurer shall transfer
9 from the General Revenue Fund to the Capital Litigation Trust
10 Fund an amount equal to the full amount of moneys appropriated
11 by the General Assembly (both by original and supplemental
12 appropriation), less any unexpended balance from the previous
13 fiscal year, from the Capital Litigation Trust Fund for the
14 specific purpose of making funding available for the
15 prosecution and defense of capital cases and for the litigation
16 expenses associated with post-conviction proceedings in
17 capital cases under Article 122 of the Code of Criminal
18 Procedure of 1963 and in relation to petitions filed under
19 Section 2-1401 of the Code of Civil Procedure in relation to
20 capital cases. The Public Defender and State's Attorney in Cook
21 County, the State Appellate Defender, the State's Attorneys
22 Appellate Prosecutor, and the Attorney General shall make
23 annual requests for appropriations from the Trust Fund.

24 (1) The Public Defender in Cook County shall request
25 appropriations to the State Treasurer for expenses
26 incurred by the Public Defender and for funding for private
27 appointed defense counsel in Cook County.

28 (2) The State's Attorney in Cook County shall request
29 an appropriation to the State Treasurer for expenses
30 incurred by the State's Attorney.

31 (3) The State Appellate Defender shall request a direct
32 appropriation from the Trust Fund for expenses incurred by
33 the State Appellate Defender in providing assistance to
34 trial attorneys under item (c)(5) of Section 10 of the
35 State Appellate Defender Act and for expenses incurred by
36 the State Appellate Defender in representing petitioners

1 in capital cases in post-conviction proceedings under
2 Article 122 of the Code of Criminal Procedure of 1963 and
3 in relation to petitions filed under Section 2-1401 of the
4 Code of Civil Procedure in relation to capital cases and
5 for the representation of those petitioners by attorneys
6 approved by or contracted with the State Appellate Defender
7 and an appropriation to the State Treasurer for payments
8 from the Trust Fund for the defense of cases in counties
9 other than Cook County.

10 (4) The State's Attorneys Appellate Prosecutor shall
11 request a direct appropriation from the Trust Fund to pay
12 expenses incurred by the State's Attorneys Appellate
13 Prosecutor and an appropriation to the State Treasurer for
14 payments from the Trust Fund for expenses incurred by
15 State's Attorneys in counties other than Cook County.

16 (5) The Attorney General shall request a direct
17 appropriation from the Trust Fund to pay expenses incurred
18 by the Attorney General in assisting the State's Attorneys
19 in counties other than Cook County and to pay for expenses
20 incurred by the Attorney General when the Attorney General
21 is ordered by the presiding judge of the Criminal Division
22 of the Circuit Court of Cook County to prosecute or
23 supervise the prosecution of Cook County cases and for
24 expenses incurred by the Attorney General in representing
25 the State in post-conviction proceedings in capital cases
26 under Article 122 of the Code of Criminal Procedure of 1963
27 and in relation to petitions filed under Section 2-1401 of
28 the Code of Civil Procedure in relation to capital cases.

29 The Public Defender and State's Attorney in Cook County,
30 the State Appellate Defender, the State's Attorneys Appellate
31 Prosecutor, and the Attorney General may each request
32 supplemental appropriations from the Trust Fund during the
33 fiscal year.

34 (e) Moneys in the Trust Fund shall be expended only as
35 follows:

36 (1) To pay the State Treasurer's costs to administer

1 the Trust Fund. The amount for this purpose may not exceed
2 5% in any one fiscal year of the amount otherwise
3 appropriated from the Trust Fund in the same fiscal year.

4 (2) To pay the capital litigation expenses of trial
5 defense and post-conviction proceedings in capital cases
6 under Article 122 of the Code of Criminal Procedure of 1963
7 and in relation to petitions filed under Section 2-1401 of
8 the Code of Civil Procedure in relation to capital cases
9 including, but not limited to, DNA testing, including DNA
10 testing under Section 116-3 of the Code of Criminal
11 Procedure of 1963, analysis, and expert testimony,
12 investigatory and other assistance, expert, forensic, and
13 other witnesses, and mitigation specialists, and grants
14 and aid provided to public defenders, appellate defenders,
15 and any attorney approved by or contracted with the State
16 Appellate Defender representing petitioners in
17 post-conviction proceedings in capital cases under Article
18 122 of the Code of Criminal Procedure of 1963 and in
19 relation to petitions filed under Section 2-1401 of the
20 Code of Civil Procedure in relation to capital cases or
21 assistance to attorneys who have been appointed by the
22 court to represent defendants who are charged with capital
23 crimes.

24 (3) To pay the compensation of trial attorneys, other
25 than public defenders or appellate defenders, who have been
26 appointed by the court to represent defendants who are
27 charged with capital crimes or attorneys approved by or
28 contracted with the State Appellate Defender to represent
29 petitioners in post-conviction proceedings in capital
30 cases under Article 122 of the Code of Criminal Procedure
31 of 1963 and in relation to petitions filed under Section
32 2-1401 of the Code of Civil Procedure in relation to
33 capital cases.

34 (4) To provide State's Attorneys with funding for
35 capital litigation expenses and for expenses of
36 representing the State in post-conviction proceedings in

1 capital cases under Article 122 of the Code of Criminal
2 Procedure of 1963 and in relation to petitions filed under
3 Section 2-1401 of the Code of Civil Procedure in relation
4 to capital cases including, but not limited to,
5 investigatory and other assistance and expert, forensic,
6 and other witnesses necessary to prosecute capital cases.
7 State's Attorneys in any county other than Cook County
8 seeking funding for capital litigation expenses and for
9 expenses of representing the State in post-conviction
10 proceedings in capital cases under Article 122 of the Code
11 of Criminal Procedure of 1963 and in relation to petitions
12 filed under Section 2-1401 of the Code of Civil Procedure
13 in relation to capital cases including, but not limited to,
14 investigatory and other assistance and expert, forensic,
15 or other witnesses under this Section may request that the
16 State's Attorneys Appellate Prosecutor or the Attorney
17 General, as the case may be, certify the expenses as
18 reasonable, necessary, and appropriate for payment from
19 the Trust Fund, on a form created by the State Treasurer.
20 Upon certification of the expenses and delivery of the
21 certification to the State Treasurer, the Treasurer shall
22 pay the expenses directly from the Capital Litigation Trust
23 Fund if there are sufficient moneys in the Trust Fund to
24 pay the expenses.

25 (5) To provide financial support through the Attorney
26 General pursuant to the Attorney General Act for the
27 several county State's Attorneys outside of Cook County,
28 but shall not be used to increase personnel for the
29 Attorney General's Office, except when the Attorney
30 General is ordered by the presiding judge of the Criminal
31 Division of the Circuit Court of Cook County to prosecute
32 or supervise the prosecution of Cook County cases.

33 (6) To provide financial support through the State's
34 Attorneys Appellate Prosecutor pursuant to the State's
35 Attorneys Appellate Prosecutor's Act for the several
36 county State's Attorneys outside of Cook County, but shall

1 not be used to increase personnel for the State's Attorneys
2 Appellate Prosecutor.

3 (7) To provide financial support to the State Appellate
4 Defender pursuant to the State Appellate Defender Act.

5 Moneys expended from the Trust Fund shall be in addition to
6 county funding for Public Defenders and State's Attorneys, and
7 shall not be used to supplant or reduce ordinary and customary
8 county funding.

9 (f) Moneys in the Trust Fund shall be appropriated to the
10 State Appellate Defender, the State's Attorneys Appellate
11 Prosecutor, the Attorney General, and the State Treasurer. The
12 State Appellate Defender shall receive an appropriation from
13 the Trust Fund to enable it to provide assistance to appointed
14 defense counsel and attorneys approved by or contracted with
15 the State Appellate Defender to represent petitioners in
16 post-conviction proceedings in capital cases under Article 122
17 of the Code of Criminal Procedure of 1963 and in relation to
18 petitions filed under Section 2-1401 of the Code of Civil
19 Procedure in relation to capital cases throughout the State and
20 to Public Defenders in counties other than Cook. The State's
21 Attorneys Appellate Prosecutor and the Attorney General shall
22 receive appropriations from the Trust Fund to enable them to
23 provide assistance to State's Attorneys in counties other than
24 Cook County and when the Attorney General is ordered by the
25 presiding judge of the Criminal Division of the Circuit Court
26 of Cook County to prosecute or supervise the prosecution of
27 Cook County cases. Moneys shall be appropriated to the State
28 Treasurer to enable the Treasurer (i) to make grants to Cook
29 County, (ii) to pay the expenses of Public Defenders, the State
30 Appellate Defender, the Attorney General, the Office of the
31 State's Attorneys Appellate Prosecutor, and State's Attorneys
32 in counties other than Cook County, (iii) to pay the expenses
33 and compensation of appointed defense counsel and attorneys
34 approved by or contracted with the State Appellate Defender to
35 represent petitioners in post-conviction proceedings in
36 capital cases under Article 122 of the Code of Criminal

1 Procedure of 1963 and in relation to petitions filed under
2 Section 2-1401 of the Code of Civil Procedure in relation to
3 capital cases in counties other than Cook County, and (iv) to
4 pay the costs of administering the Trust Fund. All expenditures
5 and grants made from the Trust Fund shall be subject to audit
6 by the Auditor General.

7 (g) For Cook County, grants from the Trust Fund shall be
8 made and administered as follows:

9 (1) For each State fiscal year, the State's Attorney
10 and Public Defender must each make a separate application
11 to the State Treasurer for capital litigation grants.

12 (2) The State Treasurer shall establish rules and
13 procedures for grant applications. The rules shall require
14 the Cook County Treasurer as the grant recipient to report
15 on a periodic basis to the State Treasurer how much of the
16 grant has been expended, how much of the grant is
17 remaining, and the purposes for which the grant has been
18 used. The rules may also require the Cook County Treasurer
19 to certify on a periodic basis that expenditures of the
20 funds have been made for expenses that are reasonable,
21 necessary, and appropriate for payment from the Trust Fund.

22 (3) The State Treasurer shall make the grants to the
23 Cook County Treasurer as soon as possible after the
24 beginning of the State fiscal year.

25 (4) The State's Attorney or Public Defender may apply
26 for supplemental grants during the fiscal year.

27 (5) Grant moneys shall be paid to the Cook County
28 Treasurer in block grants and held in separate accounts for
29 the State's Attorney, the Public Defender, and court
30 appointed defense counsel other than the Cook County Public
31 Defender, respectively, for the designated fiscal year,
32 and are not subject to county appropriation.

33 (6) Expenditure of grant moneys under this subsection
34 (g) is subject to audit by the Auditor General.

35 (7) The Cook County Treasurer shall immediately make
36 payment from the appropriate separate account in the county

1 treasury for capital litigation expenses to the State's
2 Attorney, Public Defender, or court appointed defense
3 counsel other than the Public Defender, as the case may be,
4 upon order of the State's Attorney, Public Defender or the
5 court, respectively.

6 (h) If a defendant in a capital case in Cook County is
7 represented by court appointed counsel other than the Cook
8 County Public Defender, the appointed counsel shall petition
9 the court for an order directing the Cook County Treasurer to
10 pay the court appointed counsel's reasonable and necessary
11 compensation and capital litigation expenses from grant moneys
12 provided from the Trust Fund. These petitions shall be
13 considered in camera. Orders denying petitions for
14 compensation or expenses are final. Counsel may not petition
15 for expenses that may have been provided or compensated by the
16 State Appellate Defender under item (c) (5) of Section 10 of the
17 State Appellate Defender Act.

18 (i) In counties other than Cook County, and when the
19 Attorney General is ordered by the presiding judge of the
20 Criminal Division of the Circuit Court of Cook County to
21 prosecute or supervise the prosecution of Cook County cases,
22 and excluding capital litigation expenses or services that may
23 have been provided by the State Appellate Defender under item
24 (c) (5) of Section 10 of the State Appellate Defender Act:

25 (1) Upon certification by the circuit court, on a form
26 created by the State Treasurer, that all or a portion of
27 the expenses are reasonable, necessary, and appropriate
28 for payment from the Trust Fund and the court's delivery of
29 the certification to the Treasurer, the Treasurer shall pay
30 the certified expenses of Public Defenders and the State
31 Appellate Defender from the money appropriated to the
32 Treasurer for capital litigation expenses of Public
33 Defenders and post-conviction proceeding expenses in
34 capital cases of the State Appellate Defender and expenses
35 in relation to petitions filed under Section 2-1401 of the
36 Code of Civil Procedure in relation to capital cases in any

1 county other than Cook County, if there are sufficient
2 moneys in the Trust Fund to pay the expenses.

3 (2) If a defendant in a capital case is represented by
4 court appointed counsel other than the Public Defender, the
5 appointed counsel shall petition the court to certify
6 compensation and capital litigation expenses including,
7 but not limited to, investigatory and other assistance,
8 expert, forensic, and other witnesses, and mitigation
9 specialists as reasonable, necessary, and appropriate for
10 payment from the Trust Fund. If a petitioner in a capital
11 case who has filed a petition for post-conviction relief
12 under Article 122 of the Code of Criminal Procedure of 1963
13 or a petition under Section 2-1401 of the Code of Civil
14 Procedure in relation to capital cases is represented by an
15 attorney approved by or contracted with the State Appellate
16 Defender other than the State Appellate Defender, that
17 attorney shall petition the court to certify compensation
18 and litigation expenses of post-conviction proceedings
19 under Article 122 of the Code of Criminal Procedure of 1963
20 or in relation to petitions filed under Section 2-1401 of
21 the Code of Civil Procedure in relation to capital cases.
22 Upon certification on a form created by the State Treasurer
23 of all or a portion of the compensation and expenses
24 certified as reasonable, necessary, and appropriate for
25 payment from the Trust Fund and the court's delivery of the
26 certification to the Treasurer, the State Treasurer shall
27 pay the certified compensation and expenses from the money
28 appropriated to the Treasurer for that purpose, if there
29 are sufficient moneys in the Trust Fund to make those
30 payments.

31 (3) A petition for capital litigation expenses or
32 post-conviction proceeding expenses or expenses incurred
33 in filing a petition under Section 2-1401 of the Code of
34 Civil Procedure in relation to capital cases under this
35 subsection shall be considered in camera. Orders denying
36 petitions for compensation or expenses are final.

1 (j) If the Trust Fund is discontinued or dissolved by an
2 Act of the General Assembly or by operation of law, any balance
3 remaining in the Trust Fund shall be returned to the General
4 Revenue Fund after deduction of administrative costs, any other
5 provision of this Act to the contrary notwithstanding.

6 (Source: P.A. 93-127, eff. 1-1-04; 93-605, eff. 11-19-03;
7 revised 12-9-03.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.