

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 Capital Crimes Litigation Act is amended
5 by changing Section 15 as follows:

6 (725 ILCS 124/15)

7 (Section scheduled to be repealed on July 1, 2004)

8 Sec. 15. Capital Litigation Trust Fund.

9 (a) The Capital Litigation Trust Fund is created as a
10 special fund in the State Treasury. The Trust Fund shall be
11 administered by the State Treasurer to provide moneys for the
12 appropriations to be made, grants to be awarded, and
13 compensation and expenses to be paid under this Act. All
14 interest earned from the investment or deposit of moneys
15 accumulated in the Trust Fund shall, under Section 4.1 of the
16 State Finance Act, be deposited into the Trust Fund.

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

19 (c) Moneys deposited into the Trust Fund shall be used
20 exclusively for the purposes of providing funding for the
21 prosecution and defense of capital cases as provided in this
22 Act and shall not be appropriated, loaned, or in any manner
23 transferred to the General Revenue Fund of the State of
24 Illinois.

25 (d) Every fiscal year the State Treasurer shall transfer
26 from the General Revenue Fund to the Capital Litigation Trust
27 Fund an amount equal to the full amount of moneys
28 appropriated by the General Assembly (both by original and
29 supplemental appropriation), less any unexpended balance from
30 the previous fiscal year, from the Capital Litigation Trust
31 Fund for the specific purpose of making funding available for

1 the prosecution and defense of capital cases. The Public
2 Defender and State's Attorney in Cook County, the State
3 Appellate Defender, the State's Attorneys Appellate
4 Prosecutor, and the Attorney General shall make annual
5 requests for appropriations from the Trust Fund.

6 (1) The Public Defender in Cook County shall
7 request appropriations to the State Treasurer for
8 expenses incurred by the Public Defender and for funding
9 for private appointed defense counsel in Cook County.

10 (2) The State's Attorney in Cook County shall
11 request an appropriation to the State Treasurer for
12 expenses incurred by the State's Attorney.

13 (3) The State Appellate Defender shall request a
14 direct appropriation from the Trust Fund for expenses
15 incurred by the State Appellate Defender in providing
16 assistance to trial attorneys under item (c)(5) of
17 Section 10 of the State Appellate Defender Act and an
18 appropriation to the State Treasurer for payments from
19 the Trust Fund for the defense of cases in counties other
20 than Cook County.

21 (4) The State's Attorneys Appellate Prosecutor
22 shall request a direct appropriation from the Trust Fund
23 to pay expenses incurred by the State's Attorneys
24 Appellate Prosecutor and an appropriation to the State
25 Treasurer for payments from the Trust Fund for expenses
26 incurred by State's Attorneys in counties other than Cook
27 County.

28 (5) The Attorney General shall request a direct
29 appropriation from the Trust Fund to pay expenses
30 incurred by the Attorney General in assisting the State's
31 Attorneys in counties other than Cook County and to pay
32 for expenses incurred by the Attorney General when the
33 Attorney General is ordered by the presiding judge of the
34 Criminal Division of the Circuit Court of Cook County to

1 prosecute or supervise the prosecution of Cook County
2 cases.

3 The Public Defender and State's Attorney in Cook County,
4 the State Appellate Defender, the State's Attorneys Appellate
5 Prosecutor, and the Attorney General may each request
6 supplemental appropriations from the Trust Fund during the
7 fiscal year.

8 (e) Moneys in the Trust Fund shall be expended only as
9 follows:

10 (1) To pay the State Treasurer's costs to
11 administer the Trust Fund. The amount for this purpose
12 may not exceed 5% in any one fiscal year of the amount
13 otherwise appropriated from the Trust Fund in the same
14 fiscal year.

15 (2) To pay the capital litigation expenses of trial
16 defense including, but not limited to, investigatory and
17 other assistance, expert, forensic, and other witnesses,
18 and mitigation specialists, and grants and aid provided
19 to public defenders or assistance to attorneys who have
20 been appointed by the court to represent defendants who
21 are charged with capital crimes.

22 (3) To pay the compensation of trial attorneys,
23 other than public defenders, who have been appointed by
24 the court to represent defendants who are charged with
25 capital crimes.

26 (4) To provide State's Attorneys with funding for
27 capital litigation expenses including, but not limited
28 to, investigatory and other assistance and expert,
29 forensic, and other witnesses necessary to prosecute
30 capital cases. State's Attorneys in any county other
31 than Cook County seeking funding for capital litigation
32 expenses including, but not limited to, investigatory and
33 other assistance and expert, forensic, or other witnesses
34 under this Section may request that the State's Attorneys

1 Appellate Prosecutor or the Attorney General, as the case
2 may be, certify the expenses as reasonable, necessary,
3 and appropriate for payment from the Trust Fund, on a
4 form created by the State Treasurer. Upon certification
5 of the expenses and delivery of the certification to the
6 State Treasurer, the Treasurer shall pay the expenses
7 directly from the Capital Litigation Trust Fund if there
8 are sufficient moneys in the Trust Fund to pay the
9 expenses.

10 (5) To provide financial support through the
11 Attorney General pursuant to the Attorney General Act for
12 the several county State's Attorneys outside of Cook
13 County, but shall not be used to increase personnel for
14 the Attorney General's Office, except when the Attorney
15 General is ordered by the presiding judge of the Criminal
16 Division of the Circuit Court of Cook County to prosecute
17 or supervise the prosecution of Cook County cases.

18 (6) To provide financial support through the
19 State's Attorneys Appellate Prosecutor pursuant to the
20 State's Attorneys Appellate Prosecutor's Act for the
21 several county State's Attorneys outside of Cook County,
22 but shall not be used to increase personnel for the
23 State's Attorneys Appellate Prosecutor.

24 (7) To provide financial support to the State
25 Appellate Defender pursuant to the State Appellate
26 Defender Act.

27 Moneys expended from the Trust Fund shall be in addition
28 to county funding for Public Defenders and State's Attorneys,
29 and shall not be used to supplant or reduce ordinary and
30 customary county funding.

31 (f) Moneys in the Trust Fund shall be appropriated to
32 the State Appellate Defender, the State's Attorneys Appellate
33 Prosecutor, the Attorney General, and the State Treasurer.
34 The State Appellate Defender shall receive an appropriation

1 from the Trust Fund to enable it to provide assistance to
2 appointed defense counsel throughout the State and to Public
3 Defenders in counties other than Cook. The State's Attorneys
4 Appellate Prosecutor and the Attorney General shall receive
5 appropriations from the Trust Fund to enable them to provide
6 assistance to State's Attorneys in counties other than Cook
7 County and when the Attorney General is ordered by the
8 presiding judge of the Criminal Division of the Circuit Court
9 of Cook County to prosecute or supervise the prosecution of
10 Cook County cases. Moneys shall be appropriated to the State
11 Treasurer to enable the Treasurer (i) to make grants to Cook
12 County, (ii) to pay the expenses of Public Defenders and
13 State's Attorneys in counties other than Cook County, (iii)
14 to pay the expenses and compensation of appointed defense
15 counsel in counties other than Cook County, and (iv) to pay
16 the costs of administering the Trust Fund. All expenditures
17 and grants made from the Trust Fund shall be subject to audit
18 by the Auditor General.

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

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

25 (2) The State Treasurer shall establish rules and
26 procedures for grant applications. The rules shall
27 require the Cook County Treasurer as the grant recipient
28 to report on a periodic basis to the State Treasurer how
29 much of the grant has been expended, how much of the
30 grant is remaining, and the purposes for which the grant
31 has been used. The rules may also require the Cook
32 County Treasurer to certify on a periodic basis that
33 expenditures of the funds have been made for expenses
34 that are reasonable, necessary, and appropriate for

1 payment from the Trust Fund.

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

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

7 (5) Grant moneys shall be paid to the Cook County
8 Treasurer in block grants and held in separate accounts
9 for the State's Attorney, the Public Defender, and court
10 appointed defense counsel other than the Cook County
11 Public Defender, respectively, for the designated fiscal
12 year, and are not subject to county appropriation.

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

16 (7) The Cook County Treasurer shall immediately
17 make payment from the appropriate separate account in the
18 county treasury for capital litigation expenses to the
19 State's Attorney, Public Defender, or court appointed
20 defense counsel other than the Public Defender, as the
21 case may be, upon order of the State's Attorney, Public
22 Defender or the court, respectively.

23 (h) If a defendant in a capital case in Cook County is
24 represented by court appointed counsel other than the Cook
25 County Public Defender, the appointed counsel shall petition
26 the court for an order directing the Cook County Treasurer to
27 pay the court appointed counsel's reasonable and necessary
28 compensation and capital litigation expenses from grant
29 moneys provided from the Trust Fund. These petitions shall be
30 considered in camera. Orders denying petitions for
31 compensation or expenses are final. Counsel may not petition
32 for expenses that may have been provided or compensated by
33 the State Appellate Defender under item (c)(5) of Section 10
34 of the State Appellate Defender Act.

1 (i) In counties other than Cook County, and when the
2 Attorney General is ordered by the presiding judge of the
3 Criminal Division of the Circuit Court of Cook County to
4 prosecute or supervise the prosecution of Cook County cases,
5 and excluding capital litigation expenses or services that
6 may have been provided by the State Appellate Defender under
7 item (c)(5) of Section 10 of the State Appellate Defender
8 Act:

9 (1) Upon certification by the circuit court, on a
10 form created by the State Treasurer, that all or a
11 portion of the expenses are reasonable, necessary, and
12 appropriate for payment from the Trust Fund and the
13 court's delivery of the certification to the Treasurer,
14 the Treasurer shall pay the certified expenses of Public
15 Defenders from the money appropriated to the Treasurer
16 for capital litigation expenses of Public Defenders in
17 any county other than Cook County, if there are
18 sufficient moneys in the Trust Fund to pay the expenses.

19 (2) If a defendant in a capital case is represented
20 by court appointed counsel other than the Public
21 Defender, the appointed counsel shall petition the court
22 to certify compensation and capital litigation expenses
23 including, but not limited to, investigatory and other
24 assistance, expert, forensic, and other witnesses, and
25 mitigation specialists as reasonable, necessary, and
26 appropriate for payment from the Trust Fund. Upon
27 certification on a form created by the State Treasurer of
28 all or a portion of the compensation and expenses
29 certified as reasonable, necessary, and appropriate for
30 payment from the Trust Fund and the court's delivery of
31 the certification to the Treasurer, the State Treasurer
32 shall pay the certified compensation and expenses from
33 the money appropriated to the Treasurer for that purpose,
34 if there are sufficient moneys in the Trust Fund to make

1 those payments.

2 (3) A petition for capital litigation expenses
3 under this subsection shall be considered in camera.
4 Orders denying petitions for compensation or expenses are
5 final.

6 (j) If the Trust Fund is discontinued or dissolved by an
7 Act of the General Assembly or by operation of law, any
8 balance remaining in the Trust Fund shall be returned to the
9 General Revenue Fund after deduction of administrative costs,
10 any other provision of this Act to the contrary
11 notwithstanding.

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