

1 AN ACT concerning appointment of counsel in capital cases  
2 with multiple defendants.

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

5 Section 5. The Code of Criminal Procedure of 1963 is  
6 amended by changing Section 113-3 as follows:

7 (725 ILCS 5/113-3) (from Ch. 38, par. 113-3)

8 Sec. 113-3. (a) Every person charged with an offense  
9 shall be allowed counsel before pleading to the charge. If  
10 the defendant desires counsel and has been unable to obtain  
11 same before arraignment the court shall recess court or  
12 continue the cause for a reasonable time to permit defendant  
13 to obtain counsel and consult with him before pleading to the  
14 charge. If the accused is a dissolved corporation, and is not  
15 represented by counsel, the court may, in the interest of  
16 justice, appoint as counsel a licensed attorney of this  
17 State.

18 (b) In all cases, except where the penalty is a fine  
19 only, if the court determines that the defendant is indigent  
20 and desires counsel, the Public Defender shall be appointed  
21 as counsel. If there is no Public Defender in the county or  
22 if the defendant requests counsel other than the Public  
23 Defender and the court finds that the rights of the defendant  
24 will be prejudiced by the appointment of the Public Defender,  
25 the court shall appoint as counsel a licensed attorney at law  
26 of this State, except that in a county having a population of  
27 2,000,000 or more the Public Defender shall be appointed as  
28 counsel in all misdemeanor cases where the defendant is  
29 indigent and desires counsel unless the case involves  
30 multiple defendants, in which case the court may appoint  
31 counsel other than the Public Defender for the additional

1 defendants. In capital cases with multiple defendants, the  
2 Public Defender may be appointed to represent only one  
3 defendant; each defendant must have his or her own counsel,  
4 either retained by the defendant or appointed by the court.

5 The court shall require an affidavit signed by any defendant  
6 who requests court-appointed counsel. Such affidavit shall  
7 be in the form established by the Supreme Court containing  
8 sufficient information to ascertain the assets and  
9 liabilities of that defendant. The Court may direct the  
10 Clerk of the Circuit Court to assist the defendant in the  
11 completion of the affidavit. Any person who knowingly files  
12 such affidavit containing false information concerning his  
13 assets and liabilities shall be liable to the county where  
14 the case, in which such false affidavit is filed, is pending  
15 for the reasonable value of the services rendered by the  
16 public defender or other court-appointed counsel in the case  
17 to the extent that such services were unjustly or falsely  
18 procured.

19 (c) Upon the filing with the court of a verified  
20 statement of services rendered the court shall order the  
21 county treasurer of the county of trial to pay counsel other  
22 than the Public Defender a reasonable fee. The court shall  
23 consider all relevant circumstances, including but not  
24 limited to the time spent while court is in session, other  
25 time spent in representing the defendant, and expenses  
26 reasonably incurred by counsel. In counties with a  
27 population greater than 2,000,000, the court shall order the  
28 county treasurer of the county of trial to pay counsel other  
29 than the Public Defender a reasonable fee stated in the order  
30 and based upon a rate of compensation of not more than \$40  
31 for each hour spent while court is in session and not more  
32 than \$30 for each hour otherwise spent representing a  
33 defendant, and such compensation shall not exceed \$150 for  
34 each defendant represented in misdemeanor cases and \$1250 in

1 felony cases, in addition to expenses reasonably incurred as  
2 hereinafter in this Section provided, except that, in  
3 extraordinary circumstances, payment in excess of the limits  
4 herein stated may be made if the trial court certifies that  
5 such payment is necessary to provide fair compensation for  
6 protracted representation. A trial court may entertain the  
7 filing of this verified statement before the termination of  
8 the cause, and may order the provisional payment of sums  
9 during the pendency of the cause.

10 (d) In capital cases, in addition to counsel, if the  
11 court determines that the defendant is indigent the court  
12 may, upon the filing with the court of a verified statement  
13 of services rendered, order the county Treasurer of the  
14 county of trial to pay necessary expert witnesses for  
15 defendant reasonable compensation stated in the order not to  
16 exceed \$250 for each defendant.

17 (e) If the court in any county having a population  
18 greater than 2,000,000 determines that the defendant is  
19 indigent the court may, upon the filing with the court of a  
20 verified statement of such expenses, order the county  
21 treasurer of the county of trial, in such counties having a  
22 population greater than 2,000,000 to pay the general expenses  
23 of the trial incurred by the defendant not to exceed \$50 for  
24 each defendant.

25 (f) The provisions of this Section relating to  
26 appointment of counsel, compensation of counsel, and payment  
27 of expenses in capital cases apply except when the  
28 compensation and expenses are being provided under the  
29 Capital Crimes Litigation Act.

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