

AN ACT concerning criminal law.

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

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

(725 ILCS 124/5)

Sec. 5. Appointment of trial counsel in death penalty cases. If an indigent defendant is charged with an offense for which a sentence of death is authorized, and the State's Attorney has not, at or before arraignment, filed a certificate indicating he or she will not seek the death penalty or stated on the record in open court that the death penalty will not be sought, the trial court shall immediately appoint the Public Defender, or such other qualified attorney or attorneys as the Illinois Supreme Court shall by rule provide, to represent the defendant as trial counsel. If the Public Defender is appointed, he or she shall immediately assign such attorney or attorneys who are public defenders to represent the defendant. The counsel shall meet the qualifications as the Supreme Court shall by rule provide. At the request of court appointed counsel in a case in which the death penalty is sought, attorneys employed by the State Appellate Defender may enter an appearance for the limited purpose of assisting counsel appointed under this Section.

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

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

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

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

(a) The State Appellate Defender shall represent indigent

persons on appeal in criminal and delinquent minor proceedings, when appointed to do so by a court under a Supreme Court Rule or law of this State.

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

(c) The State Appellate Defender may:

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

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

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

(4) hire investigators to provide investigative services to appointed counsel and county public defenders;

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

Investigators employed by the Death Penalty Trial Assistance and Capital Litigation Division of the State Appellate Defender shall be authorized to inquire through the Illinois State Police or local law enforcement with the Law Enforcement Agencies Data System (LEADS) under Section 2605-375 of the Civil Administrative Code of Illinois to

ascertain whether their potential witnesses have a criminal background, including: (i) warrants; (ii) arrests; (iii) convictions; and (iv) officer safety information. This authorization applies only to information held on the State level and shall be used only to protect the personal safety of the investigators. Any information that is obtained through this inquiry may not be disclosed by the investigators.

(d) For each State fiscal year, the State Appellate Defender shall appear before the General Assembly and request appropriations to be made from the Capital Litigation Trust Fund to the State Treasurer for the purpose of providing defense assistance in capital cases outside of Cook County and for expenses incurred by ~~the~~ the State Appellate Defender in representing petitioners in capital cases in post-conviction proceedings under Article 122 of the Code of Criminal Procedure of 1963 and in relation to petitions filed under Section 2-1401 of the Code of Civil Procedure in relation to capital cases and for the representation of those petitioners by attorneys approved by or contracted with the State Appellate Defender. The State Appellate Defender may appear before the General Assembly at other times during the State's fiscal year to request supplemental appropriations from the Trust Fund to the State Treasurer.

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

(Source: P.A. 93-972, eff. 8-20-04; 93-1011, eff. 1-1-05; revised 10-14-04.)