

1 AN ACT concerning counsel in capital cases.

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 113-3 as follows:

6 (725 ILCS 5/113-3) (from Ch. 38, par. 113-3)

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

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

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

14 (c) Upon the filing with the court of a verified  
15 statement of services rendered the court shall order the  
16 county treasurer of the county of trial to pay counsel other  
17 than the Public Defender a reasonable fee. The court shall  
18 consider all relevant circumstances, including but not  
19 limited to the time spent while court is in session, other  
20 time spent in representing the defendant, and expenses  
21 reasonably incurred by counsel. In counties with a  
22 population greater than 2,000,000, the court shall order the  
23 county treasurer of the county of trial to pay counsel other  
24 than the Public Defender a reasonable fee stated in the order  
25 and based upon a rate of compensation of not more than \$40  
26 for each hour spent while court is in session and not more  
27 than \$30 for each hour otherwise spent representing a  
28 defendant, and such compensation shall not exceed \$150 for  
29 each defendant represented in misdemeanor cases and \$1250 in  
30 felony cases, in addition to expenses reasonably incurred as  
31 hereinafter in this Section provided, except that, in  
32 extraordinary circumstances, payment in excess of the limits  
33 herein stated may be made if the trial court certifies that  
34 such payment is necessary to provide fair compensation for

1 protracted representation. A trial court may entertain the  
2 filing of this verified statement before the termination of  
3 the cause, and may order the provisional payment of sums  
4 during the pendency of the cause. In capital cases, the court  
5 is not bound by the limitations prescribed in this subsection  
6 (c), but shall pay counsel fees that are reasonably necessary  
7 for the proper conduct of the case. Fees in capital cases  
8 must be in an amount equal to the average hourly rate for  
9 counsel in capital cases in the county in which the case is  
10 tried.

11 (d) In capital cases, in addition to counsel, if the  
12 court determines that the defendant is indigent the court  
13 may, upon the filing with the court of a verified statement  
14 of services rendered, order the county Treasurer of the  
15 county of trial to pay necessary expert witnesses for  
16 defendant reasonable compensation, in an amount equal to the  
17 average hourly rate for that type of expert witness in  
18 capital cases in the county in which the case is tried,  
19 stated in the order not to exceed \$250--for--each--defendant.  
20 Upon payment of the ordered expenses, the county treasurer  
21 may apply to the State Treasurer for reimbursement for the  
22 ordered expenses from the Capital Litigation Trust Fund.

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

31 (f) The provisions of this Section relating to  
32 appointment of counsel, compensation of counsel, and payment  
33 of expenses in capital cases apply except when the  
34 compensation and expenses are being provided under the

1 Capital Crimes Litigation Act.

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

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.