



Rep. Will Guzzardi

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10000HB4287ham001

LRB100 15428 SLF 33603 a

1 AMENDMENT TO HOUSE BILL 4287

2 AMENDMENT NO. _____. Amend House Bill 4287 by replacing
3 everything after the enacting clause with the following:

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

16 (b) In all cases, except where the penalty is a fine only,

1 if the court determines that the defendant is indigent and
2 desires counsel, the Public Defender shall be appointed as
3 counsel. The court shall not deny the appointment of a Public
4 Defender based solely on the posting of bond by the defendant.

5 If there is no Public Defender in the county or if the
6 defendant requests counsel other than the Public Defender and
7 the court finds that the rights of the defendant will be
8 prejudiced by the appointment of the Public Defender, the court
9 shall appoint as counsel a licensed attorney at law of this
10 State, except that in a county having a population of 2,000,000
11 or more the Public Defender shall be appointed as counsel in
12 all misdemeanor cases where the defendant is indigent and
13 desires counsel unless the case involves multiple defendants,
14 in which case the court may appoint counsel other than the
15 Public Defender for the additional defendants. The court shall
16 require an affidavit signed by any defendant who requests
17 court-appointed counsel. Such affidavit shall be in the form
18 established by the Supreme Court containing sufficient
19 information to ascertain the assets and liabilities of that
20 defendant. The Court may direct the Clerk of the Circuit Court
21 to assist the defendant in the completion of the affidavit. Any
22 person who knowingly files such affidavit containing false
23 information concerning his assets and liabilities shall be
24 liable to the county where the case, in which such false
25 affidavit is filed, is pending for the reasonable value of the
26 services rendered by the public defender or other

1 court-appointed counsel in the case to the extent that such
2 services were unjustly or falsely procured.

3 (c) Upon the filing with the court of a verified statement
4 of services rendered the court shall order the county treasurer
5 of the county of trial to pay counsel other than the Public
6 Defender a reasonable fee. The court shall consider all
7 relevant circumstances, including but not limited to the time
8 spent while court is in session, other time spent in
9 representing the defendant, and expenses reasonably incurred
10 by counsel. In counties with a population greater than
11 2,000,000, the court shall order the county treasurer of the
12 county of trial to pay counsel other than the Public Defender a
13 reasonable fee stated in the order and based upon a rate of
14 compensation of not more than \$40 for each hour spent while
15 court is in session and not more than \$30 for each hour
16 otherwise spent representing a defendant, and such
17 compensation shall not exceed \$150 for each defendant
18 represented in misdemeanor cases and \$1250 in felony cases, in
19 addition to expenses reasonably incurred as hereinafter in this
20 Section provided, except that, in extraordinary circumstances,
21 payment in excess of the limits herein stated may be made if
22 the trial court certifies that such payment is necessary to
23 provide fair compensation for protracted representation. A
24 trial court may entertain the filing of this verified statement
25 before the termination of the cause, and may order the
26 provisional payment of sums during the pendency of the cause.

1 (d) In capital cases, in addition to counsel, if the court
2 determines that the defendant is indigent the court may, upon
3 the filing with the court of a verified statement of services
4 rendered, order the county Treasurer of the county of trial to
5 pay necessary expert witnesses for defendant reasonable
6 compensation stated in the order not to exceed \$250 for each
7 defendant.

8 (e) If the court in any county having a population greater
9 than 2,000,000 determines that the defendant is indigent the
10 court may, upon the filing with the court of a verified
11 statement of such expenses, order the county treasurer of the
12 county of trial, in such counties having a population greater
13 than 2,000,000 to pay the general expenses of the trial
14 incurred by the defendant not to exceed \$50 for each defendant.

15 (f) The provisions of this Section relating to appointment
16 of counsel, compensation of counsel, and payment of expenses in
17 capital cases apply except when the compensation and expenses
18 are being provided under the Capital Crimes Litigation Act.

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