



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2482

Introduced 1/22/2020, by

SYNOPSIS AS INTRODUCED:

705 ILCS 135/5-20
725 ILCS 5/124A-20

Amends the Criminal and Traffic Assessment Act. Deletes language providing that one hour of public or community service shall be equivalent to \$4 of assessment. Provides instead that the period of public service necessary to satisfy the assessment shall be set by the court, but in no event shall the hourly rate of the public or community service performed by the defendant be equivalent to less than \$10 per hour. Deletes language providing that the performance of public or community service shall be a condition of probation, conditional discharge, or supervision and shall be in addition to the performance of any other period of public or community service ordered by the court or required by law. Amends the Code of Criminal Procedure of 1963. In a provision regarding assessment waiver, removes language from the definition of "assessments" excluding assessments tied to violations of the Illinois Vehicle Code. Effective immediately.

LRB101 15103 LNS 64223 b

1 AN ACT concerning courts.

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

4 Section 5. The Criminal and Traffic Assessment Act is
5 amended by changing Section 5-20 as follows:

6 (705 ILCS 135/5-20)

7 (Text of Section before amendment by P.A. 101-408)

8 (Section scheduled to be repealed on January 1, 2021)

9 Sec. 5-20. Credit; time served; community service.

10 (a) Any credit for time served prior to sentencing that
11 reduces the amount a defendant is required to pay shall be
12 deducted first from the fine, if any, ordered by the court. Any
13 remainder of the credit shall be equally divided between the
14 assessments indicated in the ordered schedule and conditional
15 assessments.

16 (b) Excluding any ordered conditional assessment, a
17 defendant who has been ordered to pay an assessment may
18 petition the court to convert all or part of the assessment
19 into court-approved public or community service. The period of
20 public service necessary to satisfy the assessment shall be set
21 by the court, but in no event shall the hourly rate of the
22 public or community service performed by the defendant be
23 equivalent to less than \$10 per hour. The court may adjust the

1 hourly rate of public or community service in accordance with
2 this amendatory Act of the 101st General Assembly for any
3 mandatory assessments imposed between July 1, 2019 and the
4 effective date of this amendatory Act of the 101st General
5 Assembly ~~One hour of public or community service shall be~~
6 ~~equivalent to \$4 of assessment. The performance of this public~~
7 ~~or community service shall be a condition of probation,~~
8 ~~conditional discharge, or supervision and shall be in addition~~
9 ~~to the performance of any other period of public or community~~
10 ~~service ordered by the court or required by law.~~

11 (Source: P.A. 100-987, eff. 7-1-19.)

12 (Text of Section after amendment by P.A. 101-408)

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9 ~~to the performance of any other period of public or community~~
10 ~~service ordered by the court or required by law.~~

11 (Source: P.A. 100-987, eff. 7-1-19; 101-408, eff. 1-1-20.)

12 Section 10. The Code of Criminal Procedure of 1963 is
13 amended by changing Section 124A-20 as follows:

14 (725 ILCS 5/124A-20)

15 Sec. 124A-20. Assessment waiver.

16 (a) As used in this Section:

17 "Assessments" means any costs imposed on a criminal
18 defendant under Article 15 of the Criminal and Traffic
19 Assessment Act, ~~but does not include violation of the~~
20 ~~Illinois Vehicle Code assessments.~~

21 "Indigent person" means any person who meets one or
22 more of the following criteria:

23 (1) He or she is receiving assistance under one or
24 more of the following means-based governmental public

1 benefits programs: Supplemental Security Income; Aid
2 to the Aged, Blind and Disabled; Temporary Assistance
3 for Needy Families; Supplemental Nutrition Assistance
4 Program; General Assistance; Transitional Assistance;
5 or State Children and Family Assistance.

6 (2) His or her available personal income is 200% or
7 less of the current poverty level, unless the
8 applicant's assets that are not exempt under Part 9 or
9 10 of Article XII of the Code of Civil Procedure are of
10 a nature and value that the court determines that the
11 applicant is able to pay the assessments.

12 (3) He or she is, in the discretion of the court,
13 unable to proceed in an action with payment of
14 assessments and whose payment of those assessments
15 would result in substantial hardship to the person or
16 his or her family.

17 "Poverty level" means the current poverty level as
18 established by the United States Department of Health and
19 Human Services.

20 (b) Upon the application of any defendant, after the
21 commencement of an action, but no later than 30 days after
22 sentencing:

23 (1) If the court finds that the applicant is an
24 indigent person, the court shall grant the applicant a full
25 assessment waiver exempting him or her from the payment of
26 any assessments.

1 (2) The court shall grant the applicant a partial
2 assessment as follows:

3 (A) 75% of all assessments shall be waived if the
4 applicant's available income is greater than 200% but
5 no more than 250% of the poverty level, unless the
6 applicant's assets that are not exempt under Part 9 or
7 10 of Article XII of the Code of Civil Procedure are
8 such that the applicant is able, without undue
9 hardship, to pay the total assessments.

10 (B) 50% of all assessments shall be waived if the
11 applicant's available income is greater than 250% but
12 no more than 300% of the poverty level, unless the
13 applicant's assets that are not exempt under Part 9 or
14 10 of Article XII of the Code of Civil Procedure are
15 such that the court determines that the applicant is
16 able, without undue hardship, to pay a greater portion
17 of the assessments.

18 (C) 25% of all assessments shall be waived if the
19 applicant's available income is greater than 300% but
20 no more than 400% of the poverty level, unless the
21 applicant's assets that are not exempt under Part 9 or
22 10 of Article XII of the Code of Civil Procedure are
23 such that the court determines that the applicant is
24 able, without undue hardship, to pay a greater portion
25 of the assessments.

26 (c) An application for a waiver of assessments shall be in

1 writing, signed by the defendant or, if the defendant is a
2 minor, by another person having knowledge of the facts, and
3 filed no later than 30 days after sentencing. The contents of
4 the application for a waiver of assessments, and the procedure
5 for deciding the applications, shall be established by Supreme
6 Court Rule. Factors to consider in evaluating an application
7 shall include:

8 (1) the applicant's receipt of needs based
9 governmental public benefits, including Supplemental
10 Security Income (SSI); Aid to the Aged, Blind and Disabled
11 (ADB); Temporary Assistance for Needy Families (TANF);
12 Supplemental Nutrition Assistance Program (SNAP or "food
13 stamps"); General Assistance; Transitional Assistance; or
14 State Children and Family Assistance;

15 (2) the employment status of the applicant and amount
16 of monthly income, if any;

17 (3) income received from the applicant's pension,
18 Social Security benefits, unemployment benefits, and other
19 sources;

20 (4) income received by the applicant from other
21 household members;

22 (5) the applicant's monthly expenses, including rent,
23 home mortgage, other mortgage, utilities, food, medical,
24 vehicle, childcare, debts, child support, and other
25 expenses; and

26 (6) financial affidavits or other similar supporting

1 documentation provided by the applicant showing that
2 payment of the imposed assessments would result in
3 substantial hardship to the applicant or the applicant's
4 family.

5 (d) The clerk of court shall provide the application for a
6 waiver of assessments to any defendant who indicates an
7 inability to pay the assessments. The clerk of the court shall
8 post in a conspicuous place in the courthouse a notice, no
9 smaller than 8.5 x 11 inches and using no smaller than 30-point
10 typeface printed in English and in Spanish, advising criminal
11 defendants they may ask the court for a waiver of any court
12 ordered assessments. The notice shall be substantially as
13 follows:

14 "If you are unable to pay the required assessments, you
15 may ask the court to waive payment of them. Ask the clerk
16 of the court for forms."

17 (e) For good cause shown, the court may allow an applicant
18 whose application is denied or who receives a partial
19 assessment waiver to defer payment of the assessments, make
20 installment payments, or make payment upon reasonable terms and
21 conditions stated in the order.

22 (f) Nothing in this Section shall be construed to affect
23 the right of a party to court-appointed counsel, as authorized
24 by any other provision of law or by the rules of the Illinois
25 Supreme Court.

26 (g) The provisions of this Section are severable under

1 Section 1.31 of the Statute on Statutes.

2 (Source: P.A. 100-987, eff. 7-1-19.)

3 Section 95. No acceleration or delay. Where this Act makes
4 changes in a statute that is represented in this Act by text
5 that is not yet or no longer in effect (for example, a Section
6 represented by multiple versions), the use of that text does
7 not accelerate or delay the taking effect of (i) the changes
8 made by this Act or (ii) provisions derived from any other
9 Public Act.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.