



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1493

Introduced 1/31/2023, by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 70/1.45 new

5 ILCS 140/7.5

30 ILCS 105/5.990 new

720 ILCS 5/9-1

from Ch. 38, par. 9-1

725 ILCS 5/113-3

from Ch. 38, par. 113-3

725 ILCS 5/119-1

725 ILCS 105/10

from Ch. 38, par. 208-10

Amends the Code of Criminal Procedure of 1963. Provides that a defendant who at the time of the commission of the offense has attained the age of 18 or more and who has been found guilty of first degree murder may be sentenced to the penalty for a capital offense if the murdered individual was killed in or on the grounds of a religious institution, public or private school, community college, college, university, child care facility, or a public place. Defines terms. Enacts the Capital Crimes Litigation Act of 2023. Provides specified funding and resources for cases in which a sentence for a capital offense is an authorized disposition. Creates the Capital Litigation Trust Fund. Provides that all unobligated and unexpended money in the Death Penalty Abolition Fund are transferred into the Capital Litigation Trust Fund. Amends the State Appellate Defender Act. Provides that in cases in which a sentence for a capital offense is an authorized disposition, the State Appellate Defender shall provide trial counsel with legal assistance 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. Provides that the Office of the State Appellate Defender shall not be appointed to serve as trial counsel in capital cases. Amends the Freedom of Information Act, the State Finance Act, and the Criminal Code of 2012 to make conforming changes.

LRB103 04370 RLC 49376 b

1 AN ACT concerning criminal law.

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

4 Section 1. Short title. This Act may be cited as the
5 Capital Crimes Litigation Act of 2023.

6 Section 5. Appointment of trial counsel in capital cases.
7 If an indigent defendant is charged with an offense that is a
8 capital offense, and the State's Attorney has not, at or
9 before arraignment, filed a certificate indicating he or she
10 will not seek the penalty for a capital offense or stated on
11 the record in open court that the penalty for a capital offense
12 will not be sought, the trial court shall immediately appoint
13 the Public Defender, or any other qualified attorney or
14 attorneys as the Illinois Supreme Court shall by rule provide,
15 to represent the defendant as trial counsel. If the Public
16 Defender is appointed, he or she shall immediately assign the
17 attorney or attorneys who are public defenders to represent
18 the defendant. The counsel shall meet the qualifications as
19 the Supreme Court shall by rule provide. At the request of
20 court appointed counsel in a capital case, attorneys employed
21 by the State Appellate Defender may enter an appearance for
22 the limited purpose of assisting counsel appointed under this
23 Section.

1 Section 10. Court appointed trial counsel; compensation
2 and expenses.

3 (a) This Section applies only to compensation and expenses
4 of trial counsel appointed by the court as set forth in Section
5 5, other than public defenders, for the period after
6 arraignment and so long as the State's Attorney has not, at any
7 time, filed a certificate indicating he or she will not seek
8 the penalty for a capital offense or stated on the record in
9 open court that the penalty for a capital offense will not be
10 sought.

11 (a-5) Litigation budget.

12 (1) In a case in which the State has filed a statement
13 of intent to seek the penalty for a capital offense, the
14 court shall require appointed counsel, including those
15 appointed in Cook County, after counsel has had adequate
16 time to review the case and prior to engaging trial
17 assistance, to submit a proposed estimated litigation
18 budget for court approval, that will be subject to
19 modification in light of facts and developments that
20 emerge as the case proceeds. Case budgets should be
21 submitted ex parte and filed and maintained under seal in
22 order to protect the defendant's right to effective
23 assistance of counsel, right not to incriminate him or
24 herself and all applicable privileges. Case budgets shall
25 be reviewed and approved by the judge assigned to try the

1 case. As provided under subsection (c) of this Section,
2 petitions for compensation shall be reviewed by both the
3 trial judge and the presiding judge or the presiding
4 judge's designee.

5 (2) The litigation budget shall serve purposes
6 comparable to those of private retainer agreements by
7 confirming both the court's and the attorney's
8 expectations regarding fees and expenses. Consideration
9 should be given to employing an ex parte pretrial
10 conference in order to facilitate reaching agreement on a
11 litigation budget at the earliest opportunity.

12 (3) The budget shall be incorporated into a sealed
13 initial pretrial order that reflects the understandings of
14 the court and counsel regarding all matters affecting
15 counsel compensation and reimbursement and payments for
16 investigative, expert and other services, including but
17 not limited to the following matters:

18 (A) the hourly rate at which counsel will be
19 compensated;

20 (B) the hourly rate at which private
21 investigators, other than investigators employed by
22 the Office of the State Appellate Defender, will be
23 compensated; and

24 (C) the best preliminary estimate that can be made
25 of the cost of all services, including, but not
26 limited to, counsel, expert, and investigative

1 services, that are likely to be needed through the
2 guilt and penalty phases of the trial. The court shall
3 have discretion to require that budgets be prepared
4 for shorter intervals of time.

5 (4) Appointed counsel may obtain, subject to later
6 review, investigative, expert or other services without
7 prior authorization if necessary for an adequate defense.
8 If the services are obtained, the presiding judge or the
9 presiding judge's designee shall consider in an ex parte
10 proceeding that timely procurement of necessary services
11 could not await prior authorization. If an ex parte
12 hearing is requested by defense counsel or deemed
13 necessary by the trial judge prior to modifying a budget,
14 the ex parte hearing shall be before the presiding judge
15 or the presiding judge's designee. The judge may then
16 authorize the services nunc pro tunc. If the presiding
17 judge or the presiding judge's designee finds that the
18 services were not reasonable, payment may be denied.

19 (5) An approved budget shall guide counsel's use of
20 time and resources by indicating the services for which
21 compensation is authorized. The case budget shall be
22 re-evaluated when justified by changed or unexpected
23 circumstances and shall be modified by the court when
24 reasonable and necessary for an adequate defense. If an ex
25 parte hearing is requested by defense counsel or deemed
26 necessary by the trial judge prior to modifying a budget,

1 the ex parte hearing shall be before the presiding judge
2 or the presiding judge's designee.

3 (b) Appointed trial counsel shall be compensated upon
4 presentment and certification by the circuit court of a claim
5 for services detailing the date, activity, and time duration
6 for which compensation is sought. Compensation for appointed
7 trial counsel may be paid at a reasonable rate not to exceed
8 \$125 per hour. The court shall not authorize payment of bills
9 that are not properly itemized. A request for payment shall be
10 presented under seal and reviewed ex parte with a court
11 reporter present. Every January 20, the statutory rate
12 prescribed in this subsection shall be automatically increased
13 or decreased, as applicable, by a percentage equal to the
14 percentage change in the consumer price index-u during the
15 preceding 12-month calendar year. "Consumer price index-u"
16 means the index published by the Bureau of Labor Statistics of
17 the United States Department of Labor that measures the
18 average change in prices of goods and services purchased by
19 all urban consumers, United States city average, all items,
20 1982-84=100. The new rate resulting from each annual
21 adjustment shall be determined by the State Treasurer and made
22 available to the chief judge of each judicial circuit.

23 (c) Appointed trial counsel may also petition the court
24 for certification of expenses for reasonable and necessary
25 capital litigation expenses including, but not limited to,
26 investigatory and other assistance, expert, forensic, and

1 other witnesses, and mitigation specialists. Each provider of
2 proposed services must specify the best preliminary estimate
3 that can be made in light of information received in the case
4 at that point, and the provider must sign this estimate under
5 the provisions of Section 1-109 of the Code of Civil
6 Procedure. A provider of proposed services must also specify
7 (1) his or her hourly rate; (2) the hourly rate of anyone else
8 in his or her employ for whom reimbursement is sought; and (3)
9 the hourly rate of any person or entity that may be
10 subcontracted to perform these services. Counsel may not
11 petition for certification of expenses that may have been
12 provided or compensated by the State Appellate Defender under
13 item (c)(5.1) of Section 10 of the State Appellate Defender
14 Act. The petitions shall be filed under seal and considered ex
15 parte but with a court reporter present for all ex parte
16 conferences. If the requests are submitted after services have
17 been rendered, the requests shall be supported by an invoice
18 describing the services rendered, the dates the services were
19 performed and the amount of time spent. These petitions shall
20 be reviewed by both the trial judge and the presiding judge of
21 the circuit court or the presiding judge's designee. The
22 petitions and orders shall be kept under seal and shall be
23 exempt from Freedom of Information requests until the
24 conclusion of the trial, even if the prosecution chooses not
25 to pursue the penalty for a capital offense prior to trial or
26 sentencing. If an ex parte hearing is requested by defense

1 counsel or deemed necessary by the trial judge, the hearing
2 shall be before the presiding judge or the presiding judge's
3 designee.

4 (d) Appointed trial counsel shall petition the court for
5 certification of compensation and expenses under this Section
6 periodically during the course of counsel's representation.
7 The petitions shall be supported by itemized bills showing the
8 date, the amount of time spent, the work done and the total
9 being charged for each entry. The court shall not authorize
10 payment of bills that are not properly itemized. The court
11 must certify reasonable and necessary expenses of the
12 petitioner for travel and per diem (lodging, meals, and
13 incidental expenses). These expenses must be paid at the rate
14 as promulgated by the United States General Services
15 Administration for these expenses for the date and location in
16 which they were incurred, unless extraordinary reasons are
17 shown for the difference. The petitions shall be filed under
18 seal and considered ex parte but with a court reporter present
19 for all ex parte conferences. The petitions shall be reviewed
20 by both the trial judge and the presiding judge of the circuit
21 court or the presiding judge's designee. If an ex parte
22 hearing is requested by defense counsel or deemed necessary by
23 the trial judge, the ex parte hearing shall be before the
24 presiding judge or the presiding judge's designee. If the
25 court determines that the compensation and expenses should be
26 paid from the Capital Litigation Trust Fund, the court shall

1 certify, on a form created by the State Treasurer, that all or
2 a designated portion of the amount requested is reasonable,
3 necessary, and appropriate for payment from the Trust Fund.
4 The form must also be signed by lead trial counsel under the
5 provisions of Section 1-109 of the Code of Civil Procedure
6 verifying that the amount requested is reasonable, necessary,
7 and appropriate. Bills submitted for payment by any individual
8 or entity seeking payment from the Capital Litigation Trust
9 Fund must also be accompanied by a form created by the State
10 Treasurer and signed by the individual or responsible agent of
11 the entity under the provisions of Section 1-109 of the Code of
12 Civil Procedure that the amount requested is accurate and
13 truthful and reflects time spent or expenses incurred.
14 Certification of compensation and expenses by a court in any
15 county other than Cook County shall be delivered by the court
16 to the State Treasurer and must be paid by the State Treasurer
17 directly from the Capital Litigation Trust Fund if there is
18 sufficient money in the Trust Fund to pay the compensation and
19 expenses. If the State Treasurer finds within 14 days of his or
20 her receipt of a certification that the compensation and
21 expenses to be paid are unreasonable, unnecessary, or
22 inappropriate, he or she may return the certification to the
23 court setting forth in detail the objection or objections with
24 a request for the court to review the objection or objections
25 before resubmitting the certification. The State Treasurer
26 must send the claimant a copy of the objection or objections.

1 The State Treasurer may only seek a review of a specific
2 objection once. The claimant has 7 days from his or her receipt
3 of the objections to file a response with the court. With or
4 without further hearing, the court must promptly rule on the
5 objections. The petitions and orders shall be kept under seal
6 and shall be exempt from Freedom of Information requests until
7 the conclusion of the trial and appeal of the case, even if the
8 prosecution chooses not to pursue the penalty for a capital
9 offense prior to trial or sentencing. Certification of
10 compensation and expenses by a court in Cook County shall be
11 delivered by the court to the county treasurer and paid by the
12 county treasurer from money granted to the county from the
13 Capital Litigation Trust Fund.

14 Section 15. Capital Litigation Trust Fund.

15 (a) The Capital Litigation Trust Fund is created as a
16 special fund in the State Treasury. The Trust Fund shall be
17 administered by the State Treasurer to provide money for the
18 appropriations to be made, grants to be awarded, and
19 compensation and expenses to be paid under this Act. All
20 interest earned from the investment or deposit of money
21 accumulated in the Trust Fund shall, under Section 4.1 of the
22 State Finance Act, be deposited into the Trust Fund.

23 (b) Money deposited into the Trust Fund shall not be
24 considered general revenue of the State of Illinois.

25 (c) Money deposited into the Trust Fund shall be used

1 exclusively for the purposes of providing funding for the
2 prosecution and defense of capital cases and for providing
3 funding for post-conviction proceedings in capital cases under
4 Article 122 of the Code of Criminal Procedure of 1963 and in
5 relation to petitions filed under Section 2-1401 of the Code
6 of Civil Procedure in relation to capital cases as provided in
7 this Act and shall not be appropriated, loaned, or in any
8 manner transferred to the General Revenue Fund of the State of
9 Illinois.

10 (d) Every fiscal year the State Treasurer shall transfer
11 from the General Revenue Fund to the Capital Litigation Trust
12 Fund an amount equal to the full amount of money appropriated
13 by the General Assembly (both by original and supplemental
14 appropriation), less any unexpended balance from the previous
15 fiscal year, from the Capital Litigation Trust Fund for the
16 specific purpose of making funding available for the
17 prosecution and defense of capital cases and for the
18 litigation expenses associated with post-conviction
19 proceedings in capital cases under Article 122 of the Code of
20 Criminal Procedure of 1963 and in relation to petitions filed
21 under Section 2-1401 of the Code of Civil Procedure in
22 relation to capital cases. The Public Defender and State's
23 Attorney in Cook County, the State Appellate Defender, the
24 Office of the State's Attorneys Appellate Prosecutor, and the
25 Attorney General shall make annual requests for appropriations
26 from the Trust Fund.

1 (1) The Public Defender in Cook County shall request
2 appropriations to the State Treasurer for expenses
3 incurred by the Public Defender and for funding for
4 private appointed defense counsel in Cook County.

5 (2) The State's Attorney in Cook County shall request
6 an appropriation to the State Treasurer for expenses
7 incurred by the State's Attorney.

8 (3) The State Appellate Defender shall request a
9 direct appropriation from the Trust Fund for expenses
10 incurred by the State Appellate Defender in providing
11 assistance to trial attorneys under item (c)(5.1) of
12 Section 10 of the State Appellate Defender Act and for
13 expenses incurred by the State Appellate Defender in
14 representing petitioners in capital cases in
15 post-conviction proceedings under Article 122 of the Code
16 of Criminal Procedure of 1963 and in relation to petitions
17 filed under Section 2-1401 of the Code of Civil Procedure
18 in relation to capital cases and for the representation of
19 those petitioners by attorneys approved by or contracted
20 with the State Appellate Defender and an appropriation to
21 the State Treasurer for payments from the Trust Fund for
22 the defense of cases in counties other than Cook County.

23 (4) The Office of the State's Attorneys Appellate
24 Prosecutor shall request a direct appropriation from the
25 Trust Fund to pay expenses incurred by the Office of the
26 State's Attorneys Appellate Prosecutor and an

1 appropriation to the State Treasurer for payments from the
2 Trust Fund for expenses incurred by State's Attorneys in
3 counties other than Cook County.

4 (5) The Attorney General shall request a direct
5 appropriation from the Trust Fund to pay expenses incurred
6 by the Attorney General in assisting the State's Attorneys
7 in counties other than Cook County and to pay for expenses
8 incurred by the Attorney General when the Attorney General
9 is ordered by the presiding judge of the Criminal Division
10 of the Circuit Court of Cook County to prosecute or
11 supervise the prosecution of Cook County cases and for
12 expenses incurred by the Attorney General in representing
13 the State in post-conviction proceedings in capital cases
14 under Article 122 of the Code of Criminal Procedure of
15 1963 and in relation to petitions filed under Section
16 2-1401 of the Code of Civil Procedure in relation to
17 capital cases. The Public Defender and State's Attorney in
18 Cook County, the State Appellate Defender, the State's
19 Attorneys Appellate Prosecutor, and the Attorney General
20 may each request supplemental appropriations from the
21 Trust Fund during the fiscal year.

22 (e) Money in the Trust Fund shall be expended only as
23 follows:

24 (1) To pay the State Treasurer's costs to administer
25 the Trust Fund. The amount for this purpose may not exceed
26 5% in any one fiscal year of the amount otherwise

1 appropriated from the Trust Fund in the same fiscal year.

2 (2) To pay the capital litigation expenses of trial
3 defense and post-conviction proceedings in capital cases
4 under Article 122 of the Code of Criminal Procedure of
5 1963 and in relation to petitions filed under Section
6 2-1401 of the Code of Civil Procedure in relation to
7 capital cases including, but not limited to, DNA testing,
8 including DNA testing under Section 116-3 of the Code of
9 Criminal Procedure of 1963, analysis, and expert
10 testimony, investigatory and other assistance, expert,
11 forensic, and other witnesses, and mitigation specialists,
12 and grants and aid provided to public defenders, appellate
13 defenders, and any attorney approved by or contracted with
14 the State Appellate Defender representing petitioners in
15 post-conviction proceedings in capital cases under Article
16 122 of the Code of Criminal Procedure of 1963 and in
17 relation to petitions filed under Section 2-1401 of the
18 Code of Civil Procedure in relation to capital cases or
19 assistance to attorneys who have been appointed by the
20 court to represent defendants who are charged with capital
21 crimes. Reasonable and necessary capital litigation
22 expenses include travel and per diem (lodging, meals, and
23 incidental expenses).

24 (3) To pay the compensation of trial attorneys, other
25 than public defenders or appellate defenders, who have
26 been appointed by the court to represent defendants who

1 are charged with capital crimes or attorneys approved by
2 or contracted with the State Appellate Defender to
3 represent petitioners in post-conviction proceedings in
4 capital cases under Article 122 of the Code of Criminal
5 Procedure of 1963 and in relation to petitions filed under
6 Section 2-1401 of the Code of Civil Procedure in relation
7 to capital cases.

8 (4) To provide State's Attorneys with funding for
9 capital litigation expenses and for expenses of
10 representing the State in post-conviction proceedings in
11 capital cases under Article 122 of the Code of Criminal
12 Procedure of 1963 and in relation to petitions filed under
13 Section 2-1401 of the Code of Civil Procedure in relation
14 to capital cases including, but not limited to,
15 investigatory and other assistance and expert, forensic,
16 and other witnesses necessary to prosecute capital cases.
17 State's Attorneys in any county other than Cook County
18 seeking funding for capital litigation expenses and for
19 expenses of representing the State in post-conviction
20 proceedings in capital cases under Article 122 of the Code
21 of Criminal Procedure of 1963 and in relation to petitions
22 filed under Section 2-1401 of the Code of Civil Procedure
23 in relation to capital cases including, but not limited
24 to, investigatory and other assistance and expert,
25 forensic, or other witnesses under this Section may
26 request that the Office of the State's Attorneys Appellate

1 Prosecutor or the Attorney General, as the case may be,
2 certify the expenses as reasonable, necessary, and
3 appropriate for payment from the Trust Fund, on a form
4 created by the State Treasurer. Upon certification of the
5 expenses and delivery of the certification to the State
6 Treasurer, the Treasurer shall pay the expenses directly
7 from the Capital Litigation Trust Fund if there is
8 sufficient money in the Trust Fund to pay the expenses.

9 (5) To provide financial support through the Attorney
10 General under the Attorney General Act for the several
11 county State's Attorneys outside of Cook County, but shall
12 not be used to increase personnel for the Attorney
13 General's Office, except when the Attorney General is
14 ordered by the presiding judge of the Criminal Division of
15 the Circuit Court of Cook County to prosecute or supervise
16 the prosecution of Cook County cases.

17 (6) To provide financial support through the State's
18 Attorneys Appellate Prosecutor under the State's Attorneys
19 Appellate Prosecutor's Act for the several county State's
20 Attorneys outside of Cook County, but shall not be used to
21 increase personnel for the Office of the State's Attorneys
22 Appellate Prosecutor.

23 (7) To provide financial support to the State
24 Appellate Defender under the State Appellate Defender Act.
25 Money expended from the Trust Fund shall be in addition to
26 county funding for Public Defenders and State's Attorneys,

1 and shall not be used to supplant or reduce ordinary and
2 customary county funding.

3 (f) Money in the Trust Fund shall be appropriated to the
4 State Appellate Defender, the Office of the State's Attorneys
5 Appellate Prosecutor, the Attorney General, and the State
6 Treasurer. The State Appellate Defender shall receive an
7 appropriation from the Trust Fund to enable it to provide
8 assistance to appointed defense counsel and attorneys approved
9 by or contracted with the State Appellate Defender to
10 represent petitioners in post-conviction proceedings in
11 capital cases under Article 122 of the Code of Criminal
12 Procedure of 1963 and in relation to petitions filed under
13 Section 2-1401 of the Code of Civil Procedure in relation to
14 capital cases throughout the State and to Public Defenders in
15 counties other than Cook. The Office of the State's Attorneys
16 Appellate Prosecutor and the Attorney General shall receive
17 appropriations from the Trust Fund to enable them to provide
18 assistance to State's Attorneys in counties other than Cook
19 County and when the Attorney General is ordered by the
20 presiding judge of the Criminal Division of the Circuit Court
21 of Cook County to prosecute or supervise the prosecution of
22 Cook County cases. Money shall be appropriated to the State
23 Treasurer to enable the Treasurer (i) to make grants to Cook
24 County, (ii) to pay the expenses of Public Defenders, the
25 State Appellate Defender, the Attorney General, the Office of
26 the State's Attorneys Appellate Prosecutor, and State's

1 Attorneys in counties other than Cook County, (iii) to pay the
2 expenses and compensation of appointed defense counsel and
3 attorneys approved by or contracted with the State Appellate
4 Defender to represent petitioners in post-conviction
5 proceedings in capital cases under Article 122 of the Code of
6 Criminal Procedure of 1963 and in relation to petitions filed
7 under Section 2-1401 of the Code of Civil Procedure in
8 relation to capital cases in counties other than Cook County,
9 and (iv) to pay the costs of administering the Trust Fund. All
10 expenditures and grants made from the Trust Fund shall be
11 subject to audit by the Auditor General.

12 (g) For Cook County, grants from the Trust Fund shall be
13 made and administered as follows:

14 (1) For each State fiscal year, the State's Attorney
15 and Public Defender must each make a separate application
16 to the State Treasurer for capital litigation grants.

17 (2) The State Treasurer shall establish rules and
18 procedures for grant applications. The rules shall require
19 the Cook County Treasurer as the grant recipient to report
20 on a periodic basis to the State Treasurer how much of the
21 grant has been expended, how much of the grant is
22 remaining, and the purposes for which the grant has been
23 used. The rules may also require the Cook County Treasurer
24 to certify on a periodic basis that expenditures of the
25 funds have been made for expenses that are reasonable,
26 necessary, and appropriate for payment from the Trust

1 Fund.

2 (3) The State Treasurer shall make the grants to the
3 Cook County Treasurer as soon as possible after the
4 beginning of the State fiscal year.

5 (4) The State's Attorney or Public Defender may apply
6 for supplemental grants during the fiscal year.

7 (5) Grant money shall be paid to the Cook County
8 Treasurer in block grants and held in separate accounts
9 for the State's Attorney, the Public Defender, and court
10 appointed defense counsel other than the Cook County
11 Public Defender, respectively, for the designated fiscal
12 year, and are not subject to county appropriation.

13 (6) Expenditure of grant money under this subsection
14 (g) is subject to audit by the Auditor General.

15 (7) The Cook County Treasurer shall immediately make
16 payment from the appropriate separate account in the
17 county treasury for capital litigation expenses to the
18 State's Attorney, Public Defender, or court appointed
19 defense counsel other than the Public Defender, as the
20 case may be, upon order of the State's Attorney, Public
21 Defender or the court, respectively.

22 (h) If a defendant in a capital case in Cook County is
23 represented by court appointed counsel other than the Cook
24 County Public Defender, the appointed counsel shall petition
25 the court for an order directing the Cook County Treasurer to
26 pay the court appointed counsel's reasonable and necessary

1 compensation and capital litigation expenses from grant money
2 provided from the Trust Fund. The petitions shall be supported
3 by itemized bills showing the date, the amount of time spent,
4 the work done and the total being charged for each entry. The
5 court shall not authorize payment of bills that are not
6 properly itemized. The petitions shall be filed under seal and
7 considered ex parte but with a court reporter present for all
8 ex parte conferences. The petitions shall be reviewed by both
9 the trial judge and the presiding judge of the circuit court or
10 the presiding judge's designee. The petitions and orders shall
11 be kept under seal and shall be exempt from Freedom of
12 Information requests until the conclusion of the trial and
13 appeal of the case, even if the prosecution chooses not to
14 pursue the penalty for a capital offense prior to trial or
15 sentencing. Orders denying petitions for compensation or
16 expenses are final. Counsel may not petition for expenses that
17 may have been provided or compensated by the State Appellate
18 Defender under item (c)(5.1) of Section 10 of the State
19 Appellate Defender Act.

20 (i) In counties other than Cook County, and when the
21 Attorney General is ordered by the presiding judge of the
22 Criminal Division of the Circuit Court of Cook County to
23 prosecute or supervise the prosecution of Cook County cases,
24 and excluding capital litigation expenses or services that may
25 have been provided by the State Appellate Defender under item
26 (c)(5.1) of Section 10 of the State Appellate Defender Act:

1 (1) Upon certification by the circuit court, on a form
2 created by the State Treasurer, that all or a portion of
3 the expenses are reasonable, necessary, and appropriate
4 for payment from the Trust Fund and the court's delivery
5 of the certification to the Treasurer, the Treasurer shall
6 pay the certified expenses of Public Defenders and the
7 State Appellate Defender from the money appropriated to
8 the Treasurer for capital litigation expenses of Public
9 Defenders and post-conviction proceeding expenses in
10 capital cases of the State Appellate Defender and expenses
11 in relation to petitions filed under Section 2-1401 of the
12 Code of Civil Procedure in relation to capital cases in
13 any county other than Cook County, if there is sufficient
14 money in the Trust Fund to pay the expenses.

15 (2) If a defendant in a capital case is represented by
16 court appointed counsel other than the Public Defender,
17 the appointed counsel shall petition the court to certify
18 compensation and capital litigation expenses including,
19 but not limited to, investigatory and other assistance,
20 expert, forensic, and other witnesses, and mitigation
21 specialists as reasonable, necessary, and appropriate for
22 payment from the Trust Fund. If a petitioner in a capital
23 case who has filed a petition for post-conviction relief
24 under Article 122 of the Code of Criminal Procedure of
25 1963 or a petition under Section 2-1401 of the Code of
26 Civil Procedure in relation to capital cases is

1 represented by an attorney approved by or contracted with
2 the State Appellate Defender other than the State
3 Appellate Defender, that attorney shall petition the court
4 to certify compensation and litigation expenses of
5 post-conviction proceedings under Article 122 of the Code
6 of Criminal Procedure of 1963 or in relation to petitions
7 filed under Section 2-1401 of the Code of Civil Procedure
8 in relation to capital cases. Upon certification on a form
9 created by the State Treasurer of all or a portion of the
10 compensation and expenses certified as reasonable,
11 necessary, and appropriate for payment from the Trust Fund
12 and the court's delivery of the certification to the
13 Treasurer, the State Treasurer shall pay the certified
14 compensation and expenses from the money appropriated to
15 the Treasurer for that purpose, if there is sufficient
16 money in the Trust Fund to make those payments.

17 (3) A petition for capital litigation expenses or
18 post-conviction proceeding expenses or expenses incurred
19 in filing a petition under Section 2-1401 of the Code of
20 Civil Procedure in relation to capital cases under this
21 subsection shall be considered under seal and reviewed ex
22 parte with a court reporter present. Orders denying
23 petitions for compensation or expenses are final.

24 (j) If the Trust Fund is discontinued or dissolved by an
25 Act of the General Assembly or by operation of law, any balance
26 remaining in the Trust Fund shall be returned to the General

1 Revenue Fund after deduction of administrative costs, any
2 other provision of this Act to the contrary notwithstanding.

3 Section 95. The Statute on Statutes is amended by adding
4 Section 1.45 as follows:

5 (5 ILCS 70/1.45 new)

6 Sec. 1.45. Capital offense; penalty for a capital offense.
7 Whenever there is a reference in any Act to "capital offense"
8 or "penalty for a capital offense", that term means the
9 maximum sentence that could have been imposed for first degree
10 murder before July 1, 2011 (the effective date of Public Act
11 96-1543).

12 Section 100. The Freedom of Information Act is amended by
13 changing Section 7.5 as follows:

14 (5 ILCS 140/7.5)

15 Sec. 7.5. Statutory exemptions. To the extent provided for
16 by the statutes referenced below, the following shall be
17 exempt from inspection and copying:

18 (a) All information determined to be confidential
19 under Section 4002 of the Technology Advancement and
20 Development Act.

21 (b) Library circulation and order records identifying
22 library users with specific materials under the Library

1 Records Confidentiality Act.

2 (c) Applications, related documents, and medical
3 records received by the Experimental Organ Transplantation
4 Procedures Board and any and all documents or other
5 records prepared by the Experimental Organ Transplantation
6 Procedures Board or its staff relating to applications it
7 has received.

8 (d) Information and records held by the Department of
9 Public Health and its authorized representatives relating
10 to known or suspected cases of sexually transmissible
11 disease or any information the disclosure of which is
12 restricted under the Illinois Sexually Transmissible
13 Disease Control Act.

14 (e) Information the disclosure of which is exempted
15 under Section 30 of the Radon Industry Licensing Act.

16 (f) Firm performance evaluations under Section 55 of
17 the Architectural, Engineering, and Land Surveying
18 Qualifications Based Selection Act.

19 (g) Information the disclosure of which is restricted
20 and exempted under Section 50 of the Illinois Prepaid
21 Tuition Act.

22 (h) Information the disclosure of which is exempted
23 under the State Officials and Employees Ethics Act, and
24 records of any lawfully created State or local inspector
25 general's office that would be exempt if created or
26 obtained by an Executive Inspector General's office under

1 that Act.

2 (i) Information contained in a local emergency energy
3 plan submitted to a municipality in accordance with a
4 local emergency energy plan ordinance that is adopted
5 under Section 11-21.5-5 of the Illinois Municipal Code.

6 (j) Information and data concerning the distribution
7 of surcharge moneys collected and remitted by carriers
8 under the Emergency Telephone System Act.

9 (k) Law enforcement officer identification information
10 or driver identification information compiled by a law
11 enforcement agency or the Department of Transportation
12 under Section 11-212 of the Illinois Vehicle Code.

13 (l) Records and information provided to a residential
14 health care facility resident sexual assault and death
15 review team or the Executive Council under the Abuse
16 Prevention Review Team Act.

17 (m) Information provided to the predatory lending
18 database created pursuant to Article 3 of the Residential
19 Real Property Disclosure Act, except to the extent
20 authorized under that Article.

21 (n) Defense budgets and petitions for certification of
22 compensation and expenses for court appointed trial
23 counsel as provided under Sections 10 and 15 of the
24 Capital Crimes Litigation Act of 2023. This subsection (n)
25 shall apply until the conclusion of the trial of the case,
26 even if the prosecution chooses not to pursue the ~~death~~

1 penalty for a capital offense prior to trial or
2 sentencing.

3 (o) Information that is prohibited from being
4 disclosed under Section 4 of the Illinois Health and
5 Hazardous Substances Registry Act.

6 (p) Security portions of system safety program plans,
7 investigation reports, surveys, schedules, lists, data, or
8 information compiled, collected, or prepared by or for the
9 Department of Transportation under Sections 2705-300 and
10 2705-616 of the Department of Transportation Law of the
11 Civil Administrative Code of Illinois, the Regional
12 Transportation Authority under Section 2.11 of the
13 Regional Transportation Authority Act, or the St. Clair
14 County Transit District under the Bi-State Transit Safety
15 Act.

16 (q) Information prohibited from being disclosed by the
17 Personnel Record Review Act.

18 (r) Information prohibited from being disclosed by the
19 Illinois School Student Records Act.

20 (s) Information the disclosure of which is restricted
21 under Section 5-108 of the Public Utilities Act.

22 (t) All identified or deidentified health information
23 in the form of health data or medical records contained
24 in, stored in, submitted to, transferred by, or released
25 from the Illinois Health Information Exchange, and
26 identified or deidentified health information in the form

1 of health data and medical records of the Illinois Health
2 Information Exchange in the possession of the Illinois
3 Health Information Exchange Office due to its
4 administration of the Illinois Health Information
5 Exchange. The terms "identified" and "deidentified" shall
6 be given the same meaning as in the Health Insurance
7 Portability and Accountability Act of 1996, Public Law
8 104-191, or any subsequent amendments thereto, and any
9 regulations promulgated thereunder.

10 (u) Records and information provided to an independent
11 team of experts under the Developmental Disability and
12 Mental Health Safety Act (also known as Brian's Law).

13 (v) Names and information of people who have applied
14 for or received Firearm Owner's Identification Cards under
15 the Firearm Owners Identification Card Act or applied for
16 or received a concealed carry license under the Firearm
17 Concealed Carry Act, unless otherwise authorized by the
18 Firearm Concealed Carry Act; and databases under the
19 Firearm Concealed Carry Act, records of the Concealed
20 Carry Licensing Review Board under the Firearm Concealed
21 Carry Act, and law enforcement agency objections under the
22 Firearm Concealed Carry Act.

23 (v-5) Records of the Firearm Owner's Identification
24 Card Review Board that are exempted from disclosure under
25 Section 10 of the Firearm Owners Identification Card Act.

26 (w) Personally identifiable information which is

1 exempted from disclosure under subsection (g) of Section
2 19.1 of the Toll Highway Act.

3 (x) Information which is exempted from disclosure
4 under Section 5-1014.3 of the Counties Code or Section
5 8-11-21 of the Illinois Municipal Code.

6 (y) Confidential information under the Adult
7 Protective Services Act and its predecessor enabling
8 statute, the Elder Abuse and Neglect Act, including
9 information about the identity and administrative finding
10 against any caregiver of a verified and substantiated
11 decision of abuse, neglect, or financial exploitation of
12 an eligible adult maintained in the Registry established
13 under Section 7.5 of the Adult Protective Services Act.

14 (z) Records and information provided to a fatality
15 review team or the Illinois Fatality Review Team Advisory
16 Council under Section 15 of the Adult Protective Services
17 Act.

18 (aa) Information which is exempted from disclosure
19 under Section 2.37 of the Wildlife Code.

20 (bb) Information which is or was prohibited from
21 disclosure by the Juvenile Court Act of 1987.

22 (cc) Recordings made under the Law Enforcement
23 Officer-Worn Body Camera Act, except to the extent
24 authorized under that Act.

25 (dd) Information that is prohibited from being
26 disclosed under Section 45 of the Condominium and Common

1 Interest Community Ombudsperson Act.

2 (ee) Information that is exempted from disclosure
3 under Section 30.1 of the Pharmacy Practice Act.

4 (ff) Information that is exempted from disclosure
5 under the Revised Uniform Unclaimed Property Act.

6 (gg) Information that is prohibited from being
7 disclosed under Section 7-603.5 of the Illinois Vehicle
8 Code.

9 (hh) Records that are exempt from disclosure under
10 Section 1A-16.7 of the Election Code.

11 (ii) Information which is exempted from disclosure
12 under Section 2505-800 of the Department of Revenue Law of
13 the Civil Administrative Code of Illinois.

14 (jj) Information and reports that are required to be
15 submitted to the Department of Labor by registering day
16 and temporary labor service agencies but are exempt from
17 disclosure under subsection (a-1) of Section 45 of the Day
18 and Temporary Labor Services Act.

19 (kk) Information prohibited from disclosure under the
20 Seizure and Forfeiture Reporting Act.

21 (ll) Information the disclosure of which is restricted
22 and exempted under Section 5-30.8 of the Illinois Public
23 Aid Code.

24 (mm) Records that are exempt from disclosure under
25 Section 4.2 of the Crime Victims Compensation Act.

26 (nn) Information that is exempt from disclosure under

1 Section 70 of the Higher Education Student Assistance Act.

2 (oo) Communications, notes, records, and reports
3 arising out of a peer support counseling session
4 prohibited from disclosure under the First Responders
5 Suicide Prevention Act.

6 (pp) Names and all identifying information relating to
7 an employee of an emergency services provider or law
8 enforcement agency under the First Responders Suicide
9 Prevention Act.

10 (qq) Information and records held by the Department of
11 Public Health and its authorized representatives collected
12 under the Reproductive Health Act.

13 (rr) Information that is exempt from disclosure under
14 the Cannabis Regulation and Tax Act.

15 (ss) Data reported by an employer to the Department of
16 Human Rights pursuant to Section 2-108 of the Illinois
17 Human Rights Act.

18 (tt) Recordings made under the Children's Advocacy
19 Center Act, except to the extent authorized under that
20 Act.

21 (uu) Information that is exempt from disclosure under
22 Section 50 of the Sexual Assault Evidence Submission Act.

23 (vv) Information that is exempt from disclosure under
24 subsections (f) and (j) of Section 5-36 of the Illinois
25 Public Aid Code.

26 (ww) Information that is exempt from disclosure under

1 Section 16.8 of the State Treasurer Act.

2 (xx) Information that is exempt from disclosure or
3 information that shall not be made public under the
4 Illinois Insurance Code.

5 (yy) Information prohibited from being disclosed under
6 the Illinois Educational Labor Relations Act.

7 (zz) Information prohibited from being disclosed under
8 the Illinois Public Labor Relations Act.

9 (aaa) Information prohibited from being disclosed
10 under Section 1-167 of the Illinois Pension Code.

11 (bbb) Information that is prohibited from disclosure
12 by the Illinois Police Training Act and the Illinois State
13 Police Act.

14 (ccc) Records exempt from disclosure under Section
15 2605-304 of the Illinois State Police Law of the Civil
16 Administrative Code of Illinois.

17 (ddd) Information prohibited from being disclosed
18 under Section 35 of the Address Confidentiality for
19 Victims of Domestic Violence, Sexual Assault, Human
20 Trafficking, or Stalking Act.

21 (eee) Information prohibited from being disclosed
22 under subsection (b) of Section 75 of the Domestic
23 Violence Fatality Review Act.

24 (fff) Images from cameras under the Expressway Camera
25 Act. This subsection (fff) is inoperative on and after
26 July 1, 2023.

1 (ggg) ~~(fff)~~ Information prohibited from disclosure
2 under paragraph (3) of subsection (a) of Section 14 of the
3 Nurse Agency Licensing Act.

4 (Source: P.A. 101-13, eff. 6-12-19; 101-27, eff. 6-25-19;
5 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff.
6 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452,
7 eff. 1-1-20; 101-466, eff. 1-1-20; 101-600, eff. 12-6-19;
8 101-620, eff. 12-20-19; 101-649, eff. 7-7-20; 101-652, eff.
9 1-1-22; 101-656, eff. 3-23-21; 102-36, eff. 6-25-21; 102-237,
10 eff. 1-1-22; 102-292, eff. 1-1-22; 102-520, eff. 8-20-21;
11 102-559, eff. 8-20-21; 102-813, eff. 5-13-22; 102-946, eff.
12 7-1-22; 102-1042, eff. 6-3-22; revised 8-1-22.)

13 Section 105. The State Finance Act is amended by adding
14 Section 5.990 as follows:

15 (30 ILCS 105/5.990 new)

16 Sec. 5.990. The Capital Litigation Trust Fund.

17 Section 110. The Criminal Code of 2012 is amended by
18 changing Section 9-1 as follows:

19 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

20 Sec. 9-1. First degree murder; ~~death~~ penalties for a
21 capital offense; exceptions; separate hearings; proof;
22 findings; appellate procedures; reversals.

1 (a) A person who kills an individual without lawful
2 justification commits first degree murder if, in performing
3 the acts which cause the death:

4 (1) he or she either intends to kill or do great bodily
5 harm to that individual or another, or knows that such
6 acts will cause death to that individual or another; or

7 (2) he or she knows that such acts create a strong
8 probability of death or great bodily harm to that
9 individual or another; or

10 (3) he or she, acting alone or with one or more
11 participants, commits or attempts to commit a forcible
12 felony other than second degree murder, and in the course
13 of or in furtherance of such crime or flight therefrom, he
14 or she or another participant causes the death of a
15 person.

16 (b) Aggravating Factors. A defendant who at the time of
17 the commission of the offense has attained the age of 18 or
18 more and who has been found guilty of first degree murder may
19 be sentenced to natural life imprisonment ~~death~~ if:

20 (1) the murdered individual was a peace officer or
21 fireman killed in the course of performing his official
22 duties, to prevent the performance of his or her official
23 duties, or in retaliation for performing his or her
24 official duties, and the defendant knew or should have
25 known that the murdered individual was a peace officer or
26 fireman; or

1 (2) the murdered individual was an employee of an
2 institution or facility of the Department of Corrections,
3 or any similar local correctional agency, killed in the
4 course of performing his or her official duties, to
5 prevent the performance of his or her official duties, or
6 in retaliation for performing his or her official duties,
7 or the murdered individual was an inmate at such
8 institution or facility and was killed on the grounds
9 thereof, or the murdered individual was otherwise present
10 in such institution or facility with the knowledge and
11 approval of the chief administrative officer thereof; or

12 (3) the defendant has been convicted of murdering two
13 or more individuals under subsection (a) of this Section
14 or under any law of the United States or of any state which
15 is substantially similar to subsection (a) of this Section
16 regardless of whether the deaths occurred as the result of
17 the same act or of several related or unrelated acts so
18 long as the deaths were the result of either an intent to
19 kill more than one person or of separate acts which the
20 defendant knew would cause death or create a strong
21 probability of death or great bodily harm to the murdered
22 individual or another; or

23 (4) the murdered individual was killed as a result of
24 the hijacking of an airplane, train, ship, bus, or other
25 public conveyance; or

26 (5) the defendant committed the murder pursuant to a

1 contract, agreement, or understanding by which he or she
2 was to receive money or anything of value in return for
3 committing the murder or procured another to commit the
4 murder for money or anything of value; or

5 (6) the murdered individual was killed in the course
6 of another felony if:

7 (A) ~~(a)~~ the murdered individual:

8 (i) was actually killed by the defendant, or

9 (ii) received physical injuries personally
10 inflicted by the defendant substantially
11 contemporaneously with physical injuries caused by
12 one or more persons for whose conduct the
13 defendant is legally accountable under Section 5-2
14 of this Code, and the physical injuries inflicted
15 by either the defendant or the other person or
16 persons for whose conduct he is legally
17 accountable caused the death of the murdered
18 individual; and

19 (B) ~~(b)~~ in performing the acts which caused the
20 death of the murdered individual or which resulted in
21 physical injuries personally inflicted by the
22 defendant on the murdered individual under the
23 circumstances of subdivision (ii) of subparagraph (A)
24 ~~(a)~~ of paragraph (6) of subsection (b) of this
25 Section, the defendant acted with the intent to kill
26 the murdered individual or with the knowledge that his

1 acts created a strong probability of death or great
2 bodily harm to the murdered individual or another; and

3 (C) ~~(e)~~ the other felony was an inherently violent
4 crime or the attempt to commit an inherently violent
5 crime. In this subparagraph (C) ~~(e)~~, "inherently
6 violent crime" includes, but is not limited to, armed
7 robbery, robbery, predatory criminal sexual assault of
8 a child, aggravated criminal sexual assault,
9 aggravated kidnapping, aggravated vehicular hijacking,
10 aggravated arson, aggravated stalking, residential
11 burglary, and home invasion; or

12 (7) the murdered individual was under 12 years of age
13 and the death resulted from exceptionally brutal or
14 heinous behavior indicative of wanton cruelty; or

15 (8) the defendant committed the murder with intent to
16 prevent the murdered individual from testifying or
17 participating in any criminal investigation or prosecution
18 or giving material assistance to the State in any
19 investigation or prosecution, either against the defendant
20 or another; or the defendant committed the murder because
21 the murdered individual was a witness in any prosecution
22 or gave material assistance to the State in any
23 investigation or prosecution, either against the defendant
24 or another; for purposes of this paragraph (8),
25 "participating in any criminal investigation or
26 prosecution" is intended to include those appearing in the

1 proceedings in any capacity such as trial judges,
2 prosecutors, defense attorneys, investigators, witnesses,
3 or jurors; or

4 (9) the defendant, while committing an offense
5 punishable under Sections 401, 401.1, 401.2, 405, 405.2,
6 407 or 407.1 or subsection (b) of Section 404 of the
7 Illinois Controlled Substances Act, or while engaged in a
8 conspiracy or solicitation to commit such offense,
9 intentionally killed an individual or counseled,
10 commanded, induced, procured or caused the intentional
11 killing of the murdered individual; or

12 (10) the defendant was incarcerated in an institution
13 or facility of the Department of Corrections at the time
14 of the murder, and while committing an offense punishable
15 as a felony under Illinois law, or while engaged in a
16 conspiracy or solicitation to commit such offense,
17 intentionally killed an individual or counseled,
18 commanded, induced, procured or caused the intentional
19 killing of the murdered individual; or

20 (11) the murder was committed in a cold, calculated
21 and premeditated manner pursuant to a preconceived plan,
22 scheme or design to take a human life by unlawful means,
23 and the conduct of the defendant created a reasonable
24 expectation that the death of a human being would result
25 therefrom; or

26 (12) the murdered individual was an emergency medical

1 technician - ambulance, emergency medical technician -
2 intermediate, emergency medical technician - paramedic,
3 ambulance driver, or other medical assistance or first aid
4 personnel, employed by a municipality or other
5 governmental unit, killed in the course of performing his
6 official duties, to prevent the performance of his
7 official duties, or in retaliation for performing his
8 official duties, and the defendant knew or should have
9 known that the murdered individual was an emergency
10 medical technician - ambulance, emergency medical
11 technician - intermediate, emergency medical technician -
12 paramedic, ambulance driver, or other medical assistance
13 or first aid personnel; or

14 (13) the defendant was a principal administrator,
15 organizer, or leader of a calculated criminal drug
16 conspiracy consisting of a hierarchical position of
17 authority superior to that of all other members of the
18 conspiracy, and the defendant counseled, commanded,
19 induced, procured, or caused the intentional killing of
20 the murdered person; or

21 (14) the murder was intentional and involved the
22 infliction of torture. For the purpose of this Section
23 torture means the infliction of or subjection to extreme
24 physical pain, motivated by an intent to increase or
25 prolong the pain, suffering or agony of the victim; or

26 (15) the murder was committed as a result of the

1 intentional discharge of a firearm by the defendant from a
2 motor vehicle and the victim was not present within the
3 motor vehicle; or

4 (16) the murdered individual was 60 years of age or
5 older and the death resulted from exceptionally brutal or
6 heinous behavior indicative of wanton cruelty; or

7 (17) the murdered individual was a person with a
8 disability and the defendant knew or should have known
9 that the murdered individual was a person with a
10 disability. For purposes of this paragraph (17), "person
11 with a disability" means a person who suffers from a
12 permanent physical or mental impairment resulting from
13 disease, an injury, a functional disorder, or a congenital
14 condition that renders the person incapable of adequately
15 providing for his or her own health or personal care; or

16 (18) the murder was committed by reason of any
17 person's activity as a community policing volunteer or to
18 prevent any person from engaging in activity as a
19 community policing volunteer; or

20 (19) the murdered individual was subject to an order
21 of protection and the murder was committed by a person
22 against whom the same order of protection was issued under
23 the Illinois Domestic Violence Act of 1986; or

24 (20) the murdered individual was known by the
25 defendant to be a teacher or other person employed in any
26 school and the teacher or other employee is upon the

1 grounds of a school or grounds adjacent to a school, or is
2 in any part of a building used for school purposes; or

3 (21) the murder was committed by the defendant in
4 connection with or as a result of the offense of terrorism
5 as defined in Section 29D-14.9 of this Code; or

6 (22) the murdered individual was a member of a
7 congregation engaged in prayer or other religious
8 activities at a church, synagogue, mosque, or other
9 building, structure, or place used for religious worship.

10 (b-1) A defendant who at the time of the commission of the
11 offense has attained the age of 18 or more and who has been
12 found guilty of first degree murder may be sentenced to the
13 penalty for a capital offense if the murdered individual was
14 killed in or on the grounds of a religious institution, public
15 or private school, community college, college, university,
16 child care facility, or public place. In this subsection
17 (b-1):

18 "Child care facility" has the meaning ascribed to it
19 in Section 2.05 of the Child Care Act of 1969.

20 "Public place" means any place to which the public or
21 a substantial group of the public has access and includes,
22 but is not limited to, streets, highways, and the common
23 areas of schools, hospitals, apartment houses, office
24 buildings, transport facilities, and shops.

25 "Religious institution" means a church, synagogue,
26 mosque, temple, or other building, structure, or place

1 identified or associated with a particular religion or
2 used for religious worship or other religious purpose.

3 "School" includes a prekindergarten school program.

4 (b-5) Aggravating Factor; Natural Life Imprisonment. A
5 defendant who has been found guilty of first degree murder and
6 who at the time of the commission of the offense had attained
7 the age of 18 years or more may be sentenced to natural life
8 imprisonment if (i) the murdered individual was a physician,
9 physician assistant, psychologist, nurse, or advanced practice
10 registered nurse, (ii) the defendant knew or should have known
11 that the murdered individual was a physician, physician
12 assistant, psychologist, nurse, or advanced practice
13 registered nurse, and (iii) the murdered individual was killed
14 in the course of acting in his or her capacity as a physician,
15 physician assistant, psychologist, nurse, or advanced practice
16 registered nurse, or to prevent him or her from acting in that
17 capacity, or in retaliation for his or her acting in that
18 capacity.

19 (c) Consideration of factors in Aggravation and
20 Mitigation.

21 The court shall consider, or shall instruct the jury to
22 consider any aggravating and any mitigating factors which are
23 relevant to the imposition of the ~~death~~ penalty for a capital
24 offense. Aggravating factors may include but need not be
25 limited to those factors set forth in subsection (b).
26 Mitigating factors may include but need not be limited to the

1 following:

2 (1) the defendant has no significant history of prior
3 criminal activity;

4 (2) the murder was committed while the defendant was
5 under the influence of extreme mental or emotional
6 disturbance, although not such as to constitute a defense
7 to prosecution;

8 (3) the murdered individual was a participant in the
9 defendant's homicidal conduct or consented to the
10 homicidal act;

11 (4) the defendant acted under the compulsion of threat
12 or menace of the imminent infliction of death or great
13 bodily harm;

14 (5) the defendant was not personally present during
15 commission of the act or acts causing death;

16 (6) the defendant's background includes a history of
17 extreme emotional or physical abuse;

18 (7) the defendant suffers from a reduced mental
19 capacity.

20 Provided, however, that an action that does not otherwise
21 mitigate first degree murder cannot qualify as a mitigating
22 factor for first degree murder because of the discovery,
23 knowledge, or disclosure of the victim's sexual orientation as
24 defined in Section 1-103 of the Illinois Human Rights Act.

25 (d) Separate sentencing hearing.

26 Where requested by the State, the court shall conduct a

1 separate sentencing proceeding to determine the existence of
2 factors set forth in subsection (b) and to consider any
3 aggravating or mitigating factors as indicated in subsection
4 (c). The proceeding shall be conducted:

5 (1) before the jury that determined the defendant's
6 guilt; or

7 (2) before a jury impanelled for the purpose of the
8 proceeding if:

9 A. the defendant was convicted upon a plea of
10 guilty; or

11 B. the defendant was convicted after a trial
12 before the court sitting without a jury; or

13 C. the court for good cause shown discharges the
14 jury that determined the defendant's guilt; or

15 (3) before the court alone if the defendant waives a
16 jury for the separate proceeding.

17 (e) Evidence and Argument.

18 During the proceeding any information relevant to any of
19 the factors set forth in subsection (b) may be presented by
20 either the State or the defendant under the rules governing
21 the admission of evidence at criminal trials. Any information
22 relevant to any additional aggravating factors or any
23 mitigating factors indicated in subsection (c) may be
24 presented by the State or defendant regardless of its
25 admissibility under the rules governing the admission of
26 evidence at criminal trials. The State and the defendant shall

1 be given fair opportunity to rebut any information received at
2 the hearing.

3 (f) Proof.

4 The burden of proof of establishing the existence of any
5 of the factors set forth in subsection (b) is on the State and
6 shall not be satisfied unless established beyond a reasonable
7 doubt.

8 (g) Procedure - Jury.

9 If at the separate sentencing proceeding the jury finds
10 that none of the factors set forth in subsection (b) exists,
11 the court shall sentence the defendant to a term of
12 imprisonment under Chapter V of the Unified Code of
13 Corrections. If there is a unanimous finding by the jury that
14 one or more of the factors set forth in subsection (b) exist,
15 the jury shall consider aggravating and mitigating factors as
16 instructed by the court and shall determine whether the
17 sentence for a capital offense ~~of death~~ shall be imposed. If
18 the jury determines unanimously, after weighing the factors in
19 aggravation and mitigation, that the penalty for a capital
20 offense ~~death~~ is the appropriate sentence, the court shall
21 sentence the defendant to the penalty for a capital offense
22 ~~death~~. If the court does not concur with the jury
23 determination that the penalty for a capital offense ~~death~~ is
24 the appropriate sentence, the court shall set forth reasons in
25 writing including what facts or circumstances the court relied
26 upon, along with any relevant documents, that compelled the

1 court to non-concur with the sentence. This document and any
2 attachments shall be part of the record for appellate review.
3 The court shall be bound by the jury's sentencing
4 determination.

5 If after weighing the factors in aggravation and
6 mitigation, one or more jurors determines that the penalty for
7 a capital offense ~~death~~ is not the appropriate sentence, the
8 court shall sentence the defendant to a term of imprisonment
9 under Chapter V of the Unified Code of Corrections.

10 (h) Procedure - No Jury.

11 In a proceeding before the court alone, if the court finds
12 that none of the factors found in subsection (b) exists, the
13 court shall sentence the defendant to a term of imprisonment
14 under Chapter V of the Unified Code of Corrections.

15 If the Court determines that one or more of the factors set
16 forth in subsection (b) exists, the Court shall consider any
17 aggravating and mitigating factors as indicated in subsection
18 (c). If the Court determines, after weighing the factors in
19 aggravation and mitigation, that the penalty for a capital
20 offense ~~death~~ is the appropriate sentence, the Court shall
21 sentence the defendant to the penalty for a capital offense
22 ~~death~~.

23 If the court finds that the penalty for a capital offense
24 ~~death~~ is not the appropriate sentence, the court shall
25 sentence the defendant to a term of imprisonment under Chapter
26 V of the Unified Code of Corrections.

1 (h-5) Decertification as a capital case.

2 In a case in which the defendant has been found guilty of
3 first degree murder by a judge or jury, or a case on remand for
4 resentencing, and the State seeks the ~~death~~ penalty for a
5 capital offense as an appropriate sentence, on the court's own
6 motion or the written motion of the defendant, the court may
7 decertify the case as a capital ~~death penalty~~ case if the court
8 finds that the only evidence supporting the defendant's
9 conviction is the uncorroborated testimony of an informant
10 witness, as defined in Section 115-21 of the Code of Criminal
11 Procedure of 1963, concerning the confession or admission of
12 the defendant or that the sole evidence against the defendant
13 is a single eyewitness or single accomplice without any other
14 corroborating evidence. If the court decertifies the case as a
15 capital case under either of the grounds set forth above, the
16 court shall issue a written finding. The State may pursue its
17 right to appeal the decertification pursuant to Supreme Court
18 Rule 604(a)(1). If the court does not decertify the case as a
19 capital case, the matter shall proceed to the eligibility
20 phase of the sentencing hearing.

21 (i) Appellate Procedure.

22 The conviction and sentence of the penalty for a capital
23 offense ~~death~~ shall be subject to automatic review by the
24 Supreme Court. Such review shall be in accordance with rules
25 promulgated by the Supreme Court. The Illinois Supreme Court
26 may overturn the penalty for a capital offense ~~death sentence~~,

1 and order the imposition of imprisonment under Chapter V of
2 the Unified Code of Corrections if the court finds that the
3 penalty for a capital offense ~~death sentence~~ is fundamentally
4 unjust as applied to the particular case. If the Illinois
5 Supreme Court finds that the penalty for a capital offense
6 ~~death sentence~~ is fundamentally unjust as applied to the
7 particular case, independent of any procedural grounds for
8 relief, the Illinois Supreme Court shall issue a written
9 opinion explaining this finding.

10 (j) Disposition of reversed capital ~~death~~ sentence.

11 In the event that the ~~death~~ penalty for a capital offense
12 in this Act is held to be unconstitutional by the Supreme Court
13 of the United States or of the State of Illinois, any person
14 convicted of first degree murder shall be sentenced by the
15 court to a term of imprisonment under Chapter V of the Unified
16 Code of Corrections.

17 In the event that any ~~death~~ sentence for a capital offense
18 pursuant to the sentencing provisions of this Section is
19 declared unconstitutional by the Supreme Court of the United
20 States or of the State of Illinois, the court having
21 jurisdiction over a person previously sentenced to the penalty
22 for a capital offense ~~death~~ shall cause the defendant to be
23 brought before the court, and the court shall sentence the
24 defendant to a term of imprisonment under Chapter V of the
25 Unified Code of Corrections.

26 (k) Guidelines for seeking the ~~death~~ penalty for a capital

1 offense.

2 The Attorney General and State's Attorneys Association
3 shall consult on voluntary guidelines for procedures governing
4 whether or not to seek the ~~death~~ penalty for a capital offense.
5 The guidelines do not have the force of law and are only
6 advisory in nature.

7 (Source: P.A. 100-460, eff. 1-1-18; 100-513, eff. 1-1-18;
8 100-863, eff. 8-14-18; 101-223, eff. 1-1-20; 101-652, eff.
9 7-1-21.)

10 Section 115. The Code of Criminal Procedure of 1963 is
11 amended by changing Sections 113-3 and 119-1 as follows:

12 (725 ILCS 5/113-3) (from Ch. 38, par. 113-3)

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

22 (b) In all cases, except where the penalty is a fine only,
23 if the court determines that the defendant is indigent and
24 desires counsel, the Public Defender shall be appointed as

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

25 (c) Upon the filing with the court of a verified statement
26 of services rendered the court shall order the county

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

24 (d) In capital cases, in addition to counsel, if the court
25 determines that the defendant is indigent the court may, upon
26 the filing with the court of a verified statement of services

1 rendered, order the county Treasurer of the county of trial to
2 pay necessary expert witnesses for defendant reasonable
3 compensation stated in the order not to exceed \$250 for each
4 defendant.

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

13 (f) The provisions of this Section relating to appointment
14 of counsel, compensation of counsel, and payment of expenses
15 in capital cases apply except when the compensation and
16 expenses are being provided under the Capital Crimes
17 Litigation Act of 2023.

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

19 (725 ILCS 5/119-1)

20 Sec. 119-1. Capital offense ~~Death penalty~~ abolished;
21 partially restored.

22 (a) Except as otherwise provided in this Section,
23 beginning on July 1, 2011 (the effective date of Public Act
24 96-1543) and ~~Beginning on the effective date of this~~
25 ~~amendatory Act of the 96th General Assembly,~~ notwithstanding

1 any other law to the contrary, the ~~death~~ penalty for a capital
2 offense is abolished and a sentence to the penalty for a
3 capital offense ~~death~~ may not be imposed.

4 (a-5) Notwithstanding subsection (a), a defendant who at
5 the time of the commission of the offense has attained the age
6 of 18 or more years and who has been found guilty of first
7 degree murder under subsection (b-1) of Section 9-1 of the
8 Criminal Code of 2012 may be sentenced to the penalty for a
9 capital offense.

10 (b) All unobligated and unexpended moneys remaining in ~~the~~
11 ~~Capital Litigation Trust Fund on the effective date of this~~
12 ~~amendatory Act of the 96th General Assembly shall be~~
13 ~~transferred into~~ the Death Penalty Abolition Fund on the
14 effective date of this amendatory Act of the 103rd General
15 Assembly shall be transferred into the Capital Litigation
16 Trust Fund, together with any money the Death Penalty
17 Abolition Fund may receive thereafter , ~~a special fund in the~~
18 ~~State treasury, to be expended by the Illinois Criminal~~
19 ~~Justice Information Authority, for services for families of~~
20 ~~victims of homicide or murder and for training of law~~
21 ~~enforcement personnel.~~

22 (Source: P.A. 96-1543, eff. 7-1-11.)

23 Section 120. The State Appellate Defender Act is amended
24 by changing Section 10 as follows:

1 (725 ILCS 105/10) (from Ch. 38, par. 208-10)

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

3 (a) The State Appellate Defender shall represent indigent
4 persons on appeal in criminal and delinquent minor
5 proceedings, when appointed to do so by a court under a Supreme
6 Court Rule or law of this State.

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

9 (c) The State Appellate Defender may:

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

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

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

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

26 (5) (blank);

1 (5.1) in cases in which a sentence for a capital
2 offense is an authorized disposition, provide trial
3 counsel with legal assistance and the assistance of expert
4 witnesses, investigators, and mitigation specialists from
5 funds appropriated to the State Appellate Defender
6 specifically for that purpose by the General Assembly. The
7 Office of State Appellate Defender shall not be appointed
8 to serve as trial counsel in capital cases;

9 (5.5) provide training to county public defenders;

10 (5.7) provide county public defenders with the
11 assistance of expert witnesses and investigators from
12 funds appropriated to the State Appellate Defender
13 specifically for that purpose by the General Assembly. The
14 Office of the State Appellate Defender shall not be
15 appointed to act as trial counsel;

16 (6) develop a Juvenile Defender Resource Center to:
17 (i) study, design, develop, and implement model systems
18 for the delivery of trial level defender services for
19 juveniles in the justice system; (ii) in cases in which a
20 sentence of incarceration or an adult sentence, or both,
21 is an authorized disposition, provide trial counsel with
22 legal advice and the assistance of expert witnesses and
23 investigators from funds appropriated to the Office of the
24 State Appellate Defender by the General Assembly
25 specifically for that purpose; (iii) develop and provide
26 training to public defenders on juvenile justice issues,

1 utilizing resources including the State and local bar
2 associations, the Illinois Public Defender Association,
3 law schools, the Midwest Juvenile Defender Center, and pro
4 bono efforts by law firms; and (iv) make an annual report
5 to the General Assembly.

6 Investigators employed by the Capital Trial Assistance
7 Unit and Capital Post Conviction Unit of the State Appellate
8 Defender shall be authorized to inquire through the Illinois
9 State Police or local law enforcement with the Law Enforcement
10 Agencies Data System (LEADS) under Section 2605-375 of the
11 Illinois State Police Law of the Civil Administrative Code of
12 Illinois to ascertain whether their potential witnesses have a
13 criminal background, including, but not limited to: (i)
14 warrants; (ii) arrests; (iii) convictions; and (iv) officer
15 safety information. This authorization applies only to
16 information held on the State level and shall be used only to
17 protect the personal safety of the investigators. Any
18 information that is obtained through this inquiry may not be
19 disclosed by the investigators.

20 (c-5) For each State fiscal year, the State Appellate
21 Defender shall request a direct appropriation from the Capital
22 Litigation Trust Fund for expenses incurred by the State
23 Appellate Defender in providing assistance to trial attorneys
24 under paragraph (5.1) of subsection (c) of this Section and
25 for expenses incurred by the State Appellate Defender in
26 representing petitioners in capital cases in post-conviction

1 proceedings under Article 122 of the Code of Criminal
2 Procedure of 1963 and in relation to petitions filed under
3 Section 2-1401 of the Code of Civil Procedure in relation to
4 capital cases and for the representation of those petitioners
5 by attorneys approved by or contracted with the State
6 Appellate Defender and an appropriation to the State Treasurer
7 for payments from the Trust Fund for the defense of cases in
8 counties other than Cook County. The State Appellate Defender
9 may appear before the General Assembly at other times during
10 the State's fiscal year to request supplemental appropriations
11 from the Trust Fund to the State Treasurer.

12 (d) (Blank).

13 (e) The requirement for reporting to the General Assembly
14 shall be satisfied by filing copies of the report as required
15 by Section 3.1 of the General Assembly Organization Act and
16 filing such additional copies with the State Government Report
17 Distribution Center for the General Assembly as is required
18 under paragraph (t) of Section 7 of the State Library Act.

19 (Source: P.A. 99-78, eff. 7-20-15; 100-1148, eff. 12-10-18.)