ILLINOIS SUPREME COURT STATUTORY COURT FEE TASK FORCE

Report on Implementation of 2016 Task Force Recommendations and Additional Proposed Measures for Addressing Barriers to Access to Justice and Excessive Financial Burdens Associated with Fees and Costs in Illinois Court Proceedings

JANUARY 1, 2023

TABLE OF CONTENTS

Page

Acknowledgements 1

Members of the Illinois Supreme Court Statutory Court Fee Task Force 2

Origins and Purpose of This Report 3

Executive Summary 5

Analysis and Recommendations 10

I. Issues Regarding Implementation of the Criminal and Traffic Assessment Act and Section 27.1b of the Clerk of Courts Act 10

Implementation Issue 1: The CTAA and Section 27.1b Are Scheduled to Sunset on January 1, 2024 11

Implementation Issue 2: Definitions in the CTAA 13

Implementation Issue 3: A Prosecutor's Ability to Require a Criminal Defendant, as Part of a Negotiated Plea Agreement, to Relinquish the Right to Seek an Assessment Waiver 14

Implementation Issue 4: Lack of a Uniform Procedure Governing Assessment Waiver Applications 17

Implementation Issue 5: Existence of Assessments in Statutes Outside of the CTAA and Section 27.1b 18

Implementation Issue 6: Impact of the CTAA and Section 27.1b on County Budgets 19

Implementation Issue 7: Impact of the CTAA and Section 27.1b on Litigants 21

Implementation Issue 8: Impact of the CTAA and Section 27.1b on Organizations That Receive Funding Through Assessments 22

TABLE OF CONTENTS (CONT'D)

Page

II. Issues Regarding Court Assessments That Were Not Identified by the First Statutory Court Fee Task Force 24

New Initiative 1: Assessments and Fines in Juvenile Delinquency Cases 25

New Initiative 2: Fee for Guardian Reports 28

New Initiative 3: Debt Collection Fees 29

New Initiative 4: Assessments and Fines Imposed on Defendants Sentenced to the Department of Corrections.....32

New Initiative 5: Eligibility Guidelines for Assessment Waivers in Civil Litigation 34

New Initiative 6: Review of Assessments That May Violate the Free Access Clause of the Illinois Constitution 35

New Initiative 7: Working Toward a Unified, Assessment-Free Court System 37

III. Data Collection and Reporting Needed to Provide Empirical Basis for Additional Improvements.....40

Data Reporting Recommendation 1: Continuation and Expansion of Annual Reports by Circuit Court Clerks Regarding Assessments in Criminal and Traffic Proceedings ..40

Data Reporting Recommendation 2: Continuation and Expansion of Annual Reports by Circuit Court Clerks Regarding Assessments in Civil Cases 41

Data Reporting Recommendation 3: Continuation of Efforts by Circuit Clerks and the Judicial Management Information Services Division to Make Better Use of Assessment-Related Data Reported 42

TABLE OF CONTENTS (CONT'D)

Page

Conclusion 42

Appendix 44

Proposed legislation deleting the sunset provisions from the Criminal and Traffic Assessment Act ("CTAA") and Section 27.1b of the Clerk of Courts Act ("Section 27.1b"). .....Appx. A

Proposed legislation clarifying the CTAA's definitions.....Appx. B

Proposed amendments to the assessment waiver provisions contained in Section 124A-20 of the Code of Criminal Procedure and Section 1-105 of the Code of Civil Procedure .....Appx. C

Proposed amendment of Section 124A-20 to prohibit conditioning a plea agreement on the defendant's relinquishment of the right to seek an assessment waiver.....Appx. D

Proposed amendments to Supreme Court Rules 298 and 404 to establish a uniform procedure governing assessment waivers .....Appx. E

List of civil and criminal assessments that are not currently included in either the CTAA or Section 27.1(b).....Appx. F

Proposed amendment to Section 27.1b eliminating the annual fee in guardianship cases .....Appx. G

Proposed legislation repealing redundant provisions authorizing collection fees regarding unpaid assessments .....Appx. H

Proposed legislation creating an earn-down reduction of assessments and fines for defendants sentenced to the Department of Corrections .....Appx. I

Proposed legislation amending Section 1-10 of the CTAA to require assessment reports on an annual basis .....Appx. J

Proposed legislation amending Section 27.1c of the Clerk of Courts Act to require annual reporting of the total number of civil cases in which assessment waivers are sought .....Appx. K

ACKNOWLEDGEMENTS

The members of the Task Force wish to gratefully acknowledge the valuable contributions made by the following individuals: Lisa M. Goodwin of the Office of the Circuit Clerk of DuPage County; Tom Lawson of the Office of the Winnebago County Circuit Clerk; and Wenona Whitfield, Professor Emeritus at Southern Illinois University School of Law.

Special thanks go to Marcia M. Meis, the Director of the Administrative Office of Illinois Courts, and to the following AOIC employees who provided crucial substantive, empirical, and administrative support: Katie Blakeman; Amy Bowne; Jacque Huddleston; Nathan Jensen; Katherine Murphy; Jennifer Haegele-Ryterski; Alison Spanner; and Morgan Yingst.

The Task Force also wishes to thank the individuals and organizations that participated in the public hearings regarding this initiative or submitted written comments.

MEMBERS OF THE ILLINOIS SUPREME COURT STATUTORY COURT FEE TASK FORCE

Chirag G. Badlani Executive Director, Alphawood Foundation	Hon. Eugene G. Doherty Justice, Fourth District Appellate Court
Hon. Thomas M. Donnelly Circuit Judge, Circuit Court of Cook County	Hon. Michael A. Fiello Chair, Task Force New Initiatives Committee and Associate Judge, First Judicial Circuit
Hon. David Friess Illinois House of Representatives, 116th District	Hon. Katherine Keefe Chair, Task Force Data Collection & Analysis Committee and McHenry County Circuit Clerk
Hon. Thomas A. Klein Winnebago County Circuit Clerk	Hon. Leroy K. Martin Justice, First District Appellate Court
Steven F. Pflaum Task Force Chair and Partner, Neal, Gerber & Eisenberg LLP	Jonathan Pilsner Co-Chair, Criminal Justice Advisory Committee Chicago Appleseed Fund for Justice
Hon. Elizabeth A. Robb (Ret.) Former Chief Judge, Eleventh Judicial Circuit	Hon. Justin Slaughter Illinois House of Representatives, 27th District
Hon. Brian W. Stewart Illinois Senate, 45th District	Adam Vaught Chair, Task Force Implementation Committee and Partner, Kilbride & Vaught, LLC

ORIGINS AND PURPOSE OF THIS REPORT

This report builds on the June 1, 2016, findings and recommendations of the Illinois Statutory Court Fee Task Force (the "2016 Report")[1], as well as legislation enacted by the Illinois General Assembly and court rules promulgated by the Illinois Supreme Court in response to the 2016 Report. Contained in Public Act 100-987, the legislation included the Criminal and Traffic Assessment Act ("CTAA," 705 ILCS 135/) addressing court fees and costs ("assessments") in criminal and traffic proceedings, and Section 27.1b of the Clerk of Courts Act ("Section 27.1b," 705 ILCS 105/27.1b) governing assessments in civil litigation. The legislation streamlined and simplified the imposition of assessments, made the imposition of assessments more uniform across the state, and together with Supreme Court Rule amendments expanded the availability of assessment waivers for low-income parties.

The General Assembly anticipated that, as with any massive statutory overhaul, P.A. 100-987 (the "Legislation") would produce some implementation issues, inconsistent interpretations, and unintended consequences. Consequently, the Legislation included a sunset date—currently January 1, 2024—to ensure that any such issues would be identified and addressed. The Illinois Supreme Court responded to the impending sunset by issuing an order on January 11, 2021, creating a new Task Force to propose measures to remedy any problems that had surfaced regarding the Legislation, and to develop proposals to further improve the manner in which assessments are imposed in Illinois courts.[2]

Like the original Task Force, the members of the new Task Force include judges, legislators from both parties, court clerks, representatives appointed by the Governor, and lawyers appointed by the Supreme Court. Most of the Task Force's initial work was performed by three committees: (1) an Implementation Committee charged with identifying, and proposing measures to remedy, problems that have arisen with the operation of the Legislation; (2) a New Initiatives Committee responsible for developing proposals aimed at problems that the original Task Force had not targeted; and (3) a Data

---

[1] https://www.illinoiscourts.gov/Resources/4b970035-98ba-4110-86fc-60e02b6a126b/2016_Statutory_Court_Fee_Task_Force_Report.pdf

[2] https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/24c031c6-dacc-411d-9002-095eb3d45646/030521-1.pdf

Collection and Analysis Committee tasked with providing data required to inform the work of the other committees, as well as developing recommendations for improving the collection of information needed to evaluate the effectiveness of previous proposals and to provide an informed basis for additional proposals.

The structure of this report parallels the work of the Task Force's three committees. Following an Executive Summary, Section I of the Recommendations discusses the measures developed by the Implementation Committee for addressing issues that have arisen under the Legislation. Section II discusses proposals developed by the New Initiatives Committee for further improving the manner in which assessments are imposed in Illinois courts. Finally, Section III discusses measures that will improve the data collected regarding assessments and thereby improve our ability to measure the effectiveness of the current system and identify additional needed reforms.

The Task Force developed these recommendations with the assistance of input from two public hearings. The first hearing was conducted by Zoom videoconference on July 13, 2021. Testimony from that hearing helped focus and guide the Task Force's work. The second public hearing was held by Zoom videoconference on August 30, 2022, for the purpose of obtaining public comments on the recommendations contained in a draft of this report. Feedback from both hearings, as well as written comments on the draft report, has been considered by the Task Force and reflected in this final report where appropriate.

EXECUTIVE SUMMARY

The Task Force's Implementation, New Initiatives, and Data Collection and Reporting Committees developed recommendations for the subjects within their respective areas of responsibility. The committees' recommendations were then reviewed by the Task Force as a whole, which also considered input from two public hearings before approving the following final Task Force recommendations:

Implementation Recommendations

1. *The General Assembly should eliminate the sunset provisions in the CTAA and Section 27.1b.* This is needed because the CTAA has largely succeeded in its purpose of simplifying the imposition of assessments, slowing the increase in assessments, reducing variations in the amount imposed, and reducing the impact on low- and moderate-income residents. Appendix A to this Report contains proposed legislation that would implement this recommendation.

2. *The General Assembly should revise and clarify certain definitions in the CTAA (705 ILCS 135/1-5).* The recommended revisions will clarify that "case" includes all proceedings arising out of a single occurrence, that an assessment paid directly to the court is waivable, and that an assessment paid to a third-party is waivable if the third-party provided services pursuant to a contract with the court. This is needed to eliminate confusion about what is waivable under the current definition of "case," and to increase the consistency in the application of waiver rules. Appendices B and C contain proposed legislation that would implement this recommendation.

3. *The General Assembly should revise 725 ILCS 5/124A-20 to prohibit plea agreements which are conditioned upon the defendant giving up the right to seek an assessment waiver.* This is needed because of the practice that has developed in some jurisdictions of requiring defendants to bargain away their right to an assessment waiver, which (a) saddles defendants with debt they cannot afford to pay, (b) increases the variation, from county to county, in terms of the availability of assessment waivers, and (c) defeats the purpose of allowing such waivers. Appendix D contains proposed legislation implementing this recommendation.

4. *Supreme Court Rules 298 and 404 should be amended to establish a uniform procedure governing assessment waivers that limits when a hearing can be conducted in civil cases and prevents the decision on an application for assessment waiver in a criminal case from being deferred until the defendant completes his or her sentence.* These changes are needed to (a) reduce inconsistency in the decisions on assessment waiver applications for similarly situated applicants, and (b) reduce the potential for implicit bias, which is increased with a hearing, to impact the decision whether to grant a waiver. Appendix E contains proposed revisions to Supreme Court Rules 298 and 404 to implement this recommendation.

5. *The General Assembly should fully incorporate all assessments into either the CTAA or Section 27.1b.* The Task Force identified assessment statutes that were overlooked in the original Legislation. Moving those provisions into either the CTAA (criminal assessments) or Clerk of Courts Act (civil assessments)—or possibly eliminating some of those assessments—is needed to avoid confusion regarding the continuing existence of these outlier assessments and to further the original purpose of the CTAA to make imposition of assessments simpler and more transparent. Appendix F includes a complete list of all outlier civil and criminal add-on assessments. The Task Force takes no position on whether particular assessments should be eliminated, but Appendix F contains suggestions regarding where, if they are not eliminated, the outlier assessments should be included in either the CTAA or Clerk of Courts Act.

6. *The General Assembly, the judiciary, counties, circuit court clerks, and the bar should continue to work cooperatively to ensure that the judicial system receives sufficient funding to enable it to remain capable of effectively serving the public.* While the need for adequate funding of the judicial system is self-evident, this recommendation recognizes the important role that each of the identified stakeholders plays in ensuring that this objective continues to be achieved.

7. *The flexibility which the CTAA provides counties regarding how much funding to provide organizations authorized to receive assessment revenue should be preserved.* This is needed because (a) the CTAA was intended to give counties discretion to decide, in light of local conditions, the extent (if at all) to which certain nonprofit organizations should receive funding from assessments, and (b) that flexibility promotes accountability and efficiency in disbursing funds.

8. *Vigilance by interested stakeholders is required to prevent future legislation from weakening the reforms contained in the CTAA and Section 27.1b.* The General Assembly, the Supreme Court, the AOIC, circuit clerks, and bar associations each bear responsibility for ensuring that future legislation does not erode the gains achieved by the CTAA and Section 27.1b. In particular: (a) future legislation amending the CTAA and Section 27.1b should include findings that explain the history and purpose of those statutes in order to discourage the creation of new assessments outside of the current system; (b) future legislation that increases or creates a new assessment should include a finding explaining how the assessment either defrays the net cost of the litigation or directly relates to the administration of the court system; and (c) the Supreme Court, circuit clerks, and bar associations should vigilantly monitor proposed legislation that would add an assessment and strive to ensure that, if enacted, any new assessments are placed in the CTAA or Section 27.1b and adhere to the overall caps on the amount of assessments contained in that legislation.

Recommended New Initiatives

1. *The General Assembly should abolish assessments and fines in juvenile delinquency cases.* Assessments and fines in juvenile delinquency cases undermine the goal of achieving rehabilitation and successful reentry into the community by leaving youths with significant debt, prolonging their involvement in the justice system, and increasing the likelihood of recidivism.

2. *The General Assembly should eliminate the annual fee in guardianship cases for minors and disabled adults from the Clerk of Courts Act.* This is needed because most guardians are family members and are self-represented and the revenue impact would be small. Appendix G contains proposed legislation implementing this recommendation.

3. *The General Assembly should eliminate redundant legislation authorizing debt collection charges regarding unpaid assessments.* There are currently four different statutes authorizing the imposition of a fee in connection with efforts by circuit clerks to collect unpaid assessments. Elimination of two of those statutes is needed because they are redundant to the other collection fees, unnecessarily add to the debtor's burden, and are not currently assessed by all circuit clerks. Appendix H contains proposed legislation implementing this recommendation.

4. *The General Assembly should allow defendants sentenced to the Department of Corrections to earn a reduction in the amount of assessments (i.e., court costs and fees) and fines, but not restitution, unless the States Attorney requests and obtains an order excluding the reduction from the sentence based on the defendant's ability to pay.* The recommended legislation would reduce the amount of assessments and fines 20% for each year of a sentence, with defendants sentenced to a term of five or more years earning a 100% reduction. This is needed to (a) reduce barriers to defendants' successful reentry into society, and (b) relieve court officials of the administrative burden and expense of tracking debt that is usually uncollectable. Appendix I contains proposed legislation implementing this recommendation.

5. *Legislation applying to civil cases the more generous financial criteria for full or partial assessment waivers that currently apply to criminal cases should be enacted once the financial impact of that change is ascertained and adequate replacement funding for lost revenues is identified*. This is needed because assessments continue to present a significant barrier to access to justice in civil cases and it is difficult, from a policy rather than a budgetary perspective, to justify having different guidelines for civil and criminal proceedings.

6. *The General Assembly should convene a legislative working group to review a list of potentially problematic assessments in civil cases to ensure compliance with Illinois Supreme Court decisions which prohibit, as unlawful litigation taxes, fees that do not defray the expenses of litigation and therefore violate the free access and due process clauses of the Illinois Constitution*. This is needed because some of the fees listed in Appendix F that were inadvertently omitted from the CTAA and Section 27.1b may not be sufficiently tied to expenses of litigation to withstand constitutional scrutiny.

7. *Interested stakeholders should develop a long-term plan for achieving a unified Illinois court system that further reduces (or eliminates entirely) the use of assessments as a source of revenue*. This is needed because all Illinois citizens benefit from the justice system and a fully taxpayer-funded court system would allocate the costs of the state court system across all taxpayers rather than only those utilizing the system to resolve a dispute.

Data Collection and Reporting Recommendations

1. *The General Assembly should revise Section 1-10 of the CTAA to require the continuation and expansion of reports by circuit court clerks regarding assessments in criminal and traffic proceedings*. The CTAA did not require the filing of assessment reports after 2019, although reports were filed for 2020 and 2021 pursuant to Supreme Court order. Requiring biannual assessment reports, and adding the number of assessment waiver applications to the data that had been required by the CTAA, is needed to analyze the functioning of the current system for the imposition, collection, and waiver of assessments and fines in criminal and traffic cases, and to identify areas for future reforms. Appendix J contains proposed legislation implementing this recommendation.

2. *The General Assembly should revise Section 27.1d of the Clerk of Courts Act to expand reports by circuit court clerks regarding assessments in civil cases*. Requiring biannual assessment reports, and adding the number of cases in which assessment waiver applications are filed to the data that is currently required, is needed to evaluate the imposition, collection and waiver of assessments in civil cases, and to identify areas for future reforms. Appendix K contains proposed legislation implementing this recommendation.

3. *The Supreme Court should direct the AOIC's Judicial Management Information Services division to continue to work with the circuit clerks on improving the data reported to the AOIC regarding the collection of assessments and fines*. This is needed to improve our ability to identify the impact of the CTAA and Section 27.1b, as well as the projected impact of future proposed legislation relating to assessments.

ANALYSIS AND RECOMMENDATIONS

I. Issues Regarding Implementation of the Criminal and Traffic Assessment Act and Section 27.1b of the Clerk of Courts Act

The Implementation Committee obtained feedback on the operation of the Legislation from judges, lawyers, circuit clerks, and other justice partners. The Committee evaluated the effectiveness of the Legislation by reference to the extent to which it has addressed the following key findings contained in the 2016 Report[3]:

(1) The nature and purpose of assessments have changed over time, leading to a byzantine system that attempts to pass an increased share of the cost of court administration onto the parties to court proceedings;

(2) Court fines and fees are constantly increasing and are outpacing inflation;

(3) There is excessive variation across the state in the amount of assessments for the same type of proceedings; and

(4) The cumulative impact of the assessments imposed on parties to civil lawsuits and defendants in criminal and traffic proceedings imposes severe and disproportionate impacts on low- and moderate-income Illinois residents.

The Implementation Committee concluded that the Legislation had been successful in simplifying the manner in which assessments are imposed in civil, criminal, and traffic proceedings, slowing the increase in assessment amounts, reducing intra-state variation in the amount of assessments imposed for the same type of proceedings, and reducing the impacts of assessments on low- and moderate-income residents. However, the Committee identified areas where additional legislation is needed to cure ambiguous language in the original Legislation or correct statutory interpretations that were inconsistent with the legislative intent. The Task Force as a whole subsequently reviewed and refined the Implementation Committee's recommendations. The following

[3] 2016 Report at 1-2.

discussion addresses nine implementation issues, explains why they are important, and where needed presents a proposed remedy in the form of legislation or Supreme Court Rule.

Implementation Issue 1: The CTAA and Section 27.1b Are Scheduled to Sunset on January 1, 2024

Why is this an issue?

Sunset provisions would repeal the CTAA and Section 27.1b on January 1, 2024. Due to the way the sunset provisions were drafted, the statutory framework for collection of assessments would not revert to the prior system if the Legislation is allowed to sunset. The prior statutory framework has been repealed in its entirety. Therefore, if the Legislation sunsets, no statutory authorization for the collection of assessments in civil, criminal, or traffic proceedings would exist in Illinois at all.

The sweeping reforms contained in the Legislation were intended to address systemic problems identified in the 2016 Report. Litigants bore the brunt of most of those problems, including a proliferation of court assessments that interfered with access to justice in civil cases, created excessive variation across the state in assessments levied in the same kind of cases, and imposed undue financial burdens on defendants in criminal and traffic cases. The sunset provisions in the Legislation have added urgency to the need to evaluate the extent to which the Legislation has achieved its ambitious objectives, especially those pertaining to the impact of assessments on litigants, and to identify the need for amendments to better achieve those objectives.

The Task Force received feedback from clerks, judges, attorneys, and AOIC staff who have been intimately involved with the implementation of the Legislation. The consensus is that while the initial implementation process was at times difficult, once implemented the Legislation made the system of court fees and costs vastly better. Court clerks find it much simpler and easier to administer court fees and costs than before the enactment, and litigants have benefitted from the Legislation in the following respects:

- The nature and amount of assessments are much clearer and easier to understand. When the average citizen asks the Circuit Clerk, “where do all these fees come from?”

there is an easy answer and the fees can all be found in one place rather than scattered in many different statutes.

- There is greater consistency across the state, so whether a citizen receives a traffic ticket in, say, Montgomery County or McHenry County, they will pay the same assessment amount for the same violation. Similarly, while assessments in civil cases are not completely uniform statewide, the amount of variation between counties has been significantly reduced.

- In some counties, and on some case types, the average citizen is paying less than before. Particularly significant in this regard is the reduction of the large Criminal/ Traffic Conviction Surcharge that had been imposed in some counties.

- There is also more accuracy in what is being assessed. The relative simplicity of the CTAA and Section 27.1b has made it easier for circuit court clerks to determine the correct sums to be assessed.

- The expansion of assessment waivers under Section 27.1b and the authorization of assessment waivers under the CTAA have reduced the financial burden on low-income individuals in civil and criminal cases.

- The proliferation of add-on fees has been slowed since passage of the Legislation, and with it the trend toward imposing on litigants the responsibility for funding an increasing share of the cost of court proceedings.

Recommendations

The Legislation's success in addressing (while not completely solving) the problems identified in the 2016 Report warrants elimination of the sunset provisions. Attached as Appendix A to this report is proposed legislation deleting the sunset provisions from the CTAA and Section 27.1b.

Implementation Issue 2: Definitions in the CTAA

Why is this an issue?

Section 1-5 of the CTAA contains its definitions. 705 ILCS 135/1-5. Included is a definition of "case" as meaning "all charges and counts filed against a single defendant which are being prosecuted as a single proceeding before the court." *Id.* This definition created some confusion, much of which has been cured by revisions to the Manual on Recordkeeping that were approved by the Supreme Court. However, an issue remains regarding a situation where there may be one traffic stop, but two agencies (*e.g.*, the Sheriff and Village Police) issue tickets that are prosecuted by separate agencies (*e.g.*, the State's Attorney and Village Attorney). It is unclear if this is one "case" or separate cases under the current definition.

Additionally, the CTAA defines "assessments" as "costs imposed on a defendant under schedules 1 through 13 of this Act." *Id.* The CTAA permits courts to waive "assessments." See Section 5-10(e) ("Unless a court ordered payment schedule is implemented *or the assessment requirements of this Act are waived under a court order[*.]") (emphasis added). This gives rise to a question: if "assessments" can be waived, can all "costs" be waived as well? Some "costs" are not true court assessments. For example, an ambulance service which transports an injured defendant who causes a car crash while drunk may charge the defendant for the "cost" of their service, but that service is not an "assessment" under the CTAA. That type of cost is distinguishable from, for example, a charge imposed by a court requiring a defendant to submit to a court-managed or supervised service. The CTAA does not create a clear line between the two.

Recommendation

Attached as Appendix B to this report are various proposed changes to the CTAA's definition section. In particular, the revisions clarify that the definition of "case" includes all proceedings arising out of a single occurrence.

The revised definitions also clarify that an assessment that is paid directly to the court is waivable. An assessment paid to a third-party is only waivable if the third-party provided services pursuant to a contract with the court. This distinction is also reflected, with

respect to assessment waivers in criminal and civil cases, in proposed revisions to Section 124A-20 of the Code of Criminal Procedure and Section 1-105 of the Code of Civil Procedure that are contained in Appendix C.

Implementation Issue 3: A Prosecutor's Ability to Require a Criminal Defendant, as Part of a Negotiated Plea Agreement, to Relinquish the Right to Seek an Assessment Waiver

Why is this an issue?

The Task Force is aware, anecdotally, that some jurisdictions are requiring criminal defendants to relinquish their right to seek an assessment waiver as part of a negotiated plea. The Task Force believes this practice undermines the fundamental goals of the CTAA, and it recommends that it be statutorily prohibited.

Relevant Background. The 2016 Report recommended that the legislature treat separately those things which are "fines" (*i.e.*, punishment for the offense charged) and those which are "assessments" (*i.e.*, fees, costs and other charges designed to offset the State's cost of prosecuting the defendant). Although court fees were originally intended "simply to offset a portion of the cost of the services being provided," they had grown complex and extensive.

Because the justification for assessments is to help defray the cost of prosecution, rather than to punish the defendant, the Task Force recommended that the financial burden of assessments should not be imposed on those least capable of shouldering it. This recommendation did not affect judges' ability to order restitution, assess fines, or impose prison sentences:

> While criminal defendants should face meaningful punishment for committing a crime, *it is unjust and unwise to burden indigent criminal defendants with court assessments that are beyond their ability to pay and that create a disproportionate and counterproductive barrier to their reentry into society.* Rather than levy such assessments, which also impose administrative burdens on court clerks that are unwarranted by the potential amounts to be collected, it is preferable to allow judges to grant waivers. Such waivers would facilitate judges' ability to impose

> fines (that, unlike fees, are designed to punish) at amounts that are commensurate with the crime. Moreover, unlike assessments, in appropriate cases judges can authorize fines to be worked off through community service or similar programs.[4]

The legislature acted on this recommendation when it passed the CTAA, establishing a more uniform and limited scheme for imposing assessments in criminal cases. In addition, the legislature created a system under which criminal defendants could apply to the Court to have their fees waived. Eligibility for a full or partial assessment waiver was defined by reference to the defendant's income or receipt of a means-tested public benefit. 725 ILCS 5/124A-20. The statute requires the circuit clerk to provide applications forms to "any defendant who indicates an inability to pay the assessments." 725 ILCS 5/124A-20(d). Upon receipt of an application showing the defendant qualifies as an "indigent person" as defined by the CTAA, the court "shall grant" the application for the appropriate level (i.e., full or partial).

The use of the word "shall" generally indicates that the legislature intended to impose a mandatory obligation. *Schultz v. Performance Lighting, Inc.*, 2013 IL 115738, ¶ 16. The CTAA demonstrates the intention that its provisions are mandatory, *i.e.,* that any defendant has the right to request an assessment waiver and any defendant who qualifies must be given such a waiver.

Impact of Plea Bargaining. As noted above, the Task Force is aware that, in some jurisdictions, the prosecuting office has adopted the practice of conditioning plea offers on the defendant's agreement to give up the right to seek a waiver—a "waiver of the waiver." The Task Force is concerned that this practice undercuts the policies which underlie the CTAA.

The legislature's purpose in providing for waivers of the assessments imposed on indigent defendants is that the responsibility to financially support the judicial system should not be placed on those least able to bear it. Additionally, a plea agreement generally involves the defendant bargaining to preserve his or her personal liberty to the greatest extent possible; this puts the defendant in a significantly reduced bargaining position when compared to the prosecution. Recalling that some 95-99% of all criminal dispositions are effectuated by pleas, it would very nearly constitute a *de facto* repeal of the statutory

---

4 2016 Report at 34 (emphasis added)

assessment waiver provisions in those jurisdictions which condition plea agreements on the defendant giving up the statutory right to an assessment waiver.

It is true that a negotiated plea is a voluntary agreement between the prosecution and the defendant, and such agreements are generally considered to be governed by the law applicable to private contracts. *People v. Nutall*, 312 Ill. App. 3d 620, 637 (1st Dist. 2000). However, the analogy between pleas and private contracts "may not hold in all respects." *Puckett v. United States*, 556 U.S. 129, 137 (2009). A criminal defendant's underlying contract right is constitutionally based and reflects fundamentally different concerns than those involved with private contracts; therefore, "application of contract law principles to plea agreements may require tempering in some instances." *People v. Evans*, 174 Ill. 2d 320, 326–27 (1996).

Furthermore, even with private contracts, parties are not permitted to include terms which are "against public policy" or "contravene some positive rule of law." *County of Jackson v. Mediacom Illinois, LLC,* 2012 IL App (5th) 110350, ¶11. The legislature carefully crafted a scheme for the consolidation of all court costs and fees under the concept of "assessments," along with a provision to allow indigent defendants to receive full or partial waivers of their obligation to pay those assessments. This reflects a clear statement of Illinois public policy concerning the rights of those indigent defendants. It is likely already contrary to public policy for prosecutors to require criminal defendants to bargain away that right as a condition of a plea agreement. To the extent there is any doubt, the legislature should clarify that intent.

Finally, there is another fundamental purpose of the CTAA frustrated by this practice: uniformity. One of the animating goals of the CTAA was reducing the variability of financial consequences for the same crime from jurisdiction to jurisdiction. If some jurisdictions are preventing criminal defendants from seeking assessment waivers, it means that a defendant's ability to exercise that right will depend on the jurisdiction in which the case against them is being prosecuted.

Recommendation

For the reasons stated above, the Task Force recommends that the legislature prohibit plea agreements which are conditioned upon the defendant giving up the right to seek

an assessment waiver. We propose that this be accomplished by amending 725 ILCS 5/124A-20 to add the following provision:

> (h) No defendant shall be required to forego or waive his or her right to seek a waiver of assessments as a condition of any plea agreement.

This proposed statutory amendment is included in Appendix D.

Implementation Issue 4: Lack of a Uniform Procedure Governing Assessment Waiver Applications

Why is this an issue?

Wide variations have developed in the procedures employed by courts in deciding applications for assessment waivers. For example, some courts only require a hearing if there is a factual issue on the face of the application, while other courts require a hearing on every application. Some courts require the applicant to provide proof of public benefits and others do not. The list goes on. These practices can even vary between courthouses in the same circuit.

These inconsistent practices are problematic for several reasons. First and foremost, they can lead to unequal treatment of similarly situated court users, some of whom would obtain waivers while others would not. In addition, requiring litigants seeking a waiver to appear for a hearing, whether in person or via video conference, creates procedural hurdles for some litigants but not others. Inconsistent practices also make it nearly impossible for those attempting to help pro se litigants to be able to provide detailed guidance to help them navigate this process.

Research suggests that requiring an appearance in connection with an assessment waiver application creates an unnecessary risk that factors like physical appearance, race, and gender may inappropriately influence the decision. Litigants appearing at a hearing may appear to have greater or fewer financial resources than they really do. The visual information a judge can gain from requiring an appearance is not necessary for the consideration of the fee waiver application, and it may actually prevent the judge from making an accurate and unbiased decision.

Recommendation

The Task Force recommends that the Supreme Court Rules be amended to establish a uniform procedure governing assessment waivers that limits the circumstances in which a hearing can be conducted in civil cases and prevents the decision on an application for assessment waiver in a criminal case from being deferred until the defendant completes his or her sentence. Appendix E contains proposed revisions to Rules 298 and 404 that would implement this recommendation.

Implementation Issue 5: Existence of Assessments in Statutes Outside of the CTAA and Section 27.1b

Why is this an issue?

A core principle adopted by the original Statutory Court Fee Task Force in its 2016 Report was that court assessments should be simple, easy to understand, and uniform to the extent possible. At the time, the civil and criminal assessment landscape in Illinois consisted of a multitude of add-on fees that were scattered among many different statutes, making it very difficult for civil and criminal litigants to accurately determine which fees would be imposed and what the true and final cost would be.

Out of that core principle, the CTAA was adopted to codify and centralize all criminal assessments into a single statute, and civil assessments were consolidated into a single section, Section 27.1b of the Clerk of Courts Act. These enactments have gone a long way toward simplifying and bringing transparency to the assessment process.

In the process of consolidating the existing assessments into the CTAA and Section 27.1b, a significant number of statutory add-on fees were inadvertently missed and are still contained in various other statutes. This has created confusion and lingering questions about whether, and to what extent, such outlier assessments may be assessed and whether they are subject to waiver.

Recommendation

The Task Force recommends the General Assembly fully incorporate all assessments into either the CTAA or Section 27.1b. Appendix F includes a complete list of all outlier civil and criminal add-on assessments identified by the Task Force and recommended for inclusion in either the CTAA (criminal assessments) or Clerk of Courts Act (civil assessments).

Some of these assessments could be eliminated entirely. The Task Force takes no position on whether an assessment should be eliminated. However, if the assessment is not eliminated, Appendix F offers a suggestion for where it should be moved.

Implementation Issue 6: Impact of the CTAA and Section 27.1b on County Budgets

Why is this an issue?

The judicial branch in Illinois operates, generally, from the following funding sources:

1. The State pays for all judicial salaries and the operations and staff salaries of the Supreme Court, Appellate Courts, and Administrative Office of the Illinois Courts. It also reimburses the counties for probation costs.

2. Trial court operations are funded through a combination of County general revenues, court assessments, and fines. These funding sources support courthouse operations, salaries and operations of the circuit court clerk, courtroom security, and various other costs needed to operate the trial court.

County appropriations to court operations have become severely stressed, especially in smaller rural counties. While the CTAA and Section 27.1b have undoubtedly had some effect on these budget pressures, the Task Force has been unable to determine how much. This is due to several reasons.

First, the Legislation dramatically changed both the system for imposing assessments in civil, criminal, and traffic cases as well as reporting requirements. For example,

Section 27.1b expanded the availability of assessment waivers in civil cases, but the amount of waivers had not previously been tracked. It is therefore impossible to determine the extent to which the expanded assessment waiver provisions in Section 27.1b have affected court budgets.

Second, there has been a decade-plus decline in case filings across all case types. Fewer cases mean fewer court assessments. This has had a detrimental effect on the amount of fees collected over time, and would have continued without passage of the Legislation.

Third, the COVID-19 pandemic began approximately six months after the CTAA and Section 27.1b went into effect. The pandemic undoubtedly reduced the number of court filings, making it more difficult to measure the fiscal effect of the Legislation.

While it has not been possible to measure the effect of the Legislation on county appropriations to trial court operations, the Task Force believes this is an issue of great importance that the General Assembly, the counties, and the judiciary should work cooperatively to address. Indeed, this issue is likely to become even more important with the abolition of cash bail under the SAFE-T Act as well as current depopulation trends.

Recommendation

The problem here does not lie with the CTAA or Section 27.1b. But the problem is of such importance the Task Force provides the following observations.

The General Assembly in recent years has increased its appropriation to the Supreme Court to the point where it now fully funds the Court's budget requests. This includes, importantly, full funding for reimbursing counties' probation costs. Previously, counties were required to make up the shortfall or cut probation services. By fully funding probation reimbursement costs, the General Assembly has taken an undue burden off counties and made a robust probation system possible.

Additionally, this year the General Assembly for the first time (upon the first request) provided the Supreme Court with nearly $26 million to support the new pretrial services division of the AOIC. The Office of Statewide Pretrial Services will provide support to trial courts for services relating to bail decisions and the monitoring of defendants released

pretrial. This, too, will help ease the budget pressure on counties. Further relief is expected from $10 million in technology improvements funded by the General Assembly to improve the efficiency of trial court operations.

The Supreme Court, through the Illinois Judicial Conference, has created a Court Funding Task Force that is looking into the costs of operating the judicial system globally with the goal of making recommendations for improvements in the way the system is funded.

Finally, counties have also invested in technology that has provided efficiencies that reduce staff needs, paper storage costs, and myriad other costs associated with operating a court system. And, of course, counties have provided funding to the courts from their general revenue budget beyond what the counties receive from fees and fines.

The judicial branch is not an executive agency providing government services, but a separate branch of government. There should never be a debate about how much service the judiciary should provide. Thankfully all the partners in court funding have understood this. But as the pressures on county budgets continue, the Task Force recommends the General Assembly, the judiciary, the counties, circuit court clerks, and the bar continue to work cooperatively to ensure that the judiciary remains capable of effectively serving the public.

Implementation Issue 7: Impact of the CTAA and Section 27.1b on Organizations That Receive Funding Through Assessments

Why is this an issue?

The previous system evolved through a series of well-intentioned measures that added a host of assessments that were individually small but significant—and significantly problematic—in the aggregate. Over the years the General Assembly added assessments to provide funding to various worthy initiatives or organizations, such as court automation, law libraries, and children's waiting rooms. The previous system provided fixed amounts from various assessments to be allocated directly to such organizations.

The Legislation changed that system. It provides counties with the flexibility to decide how much to provide such organizations, if anything at all. As a result, some

organizations may have received less funding from assessments than they did under the prior system, while at the local level some organizations may have experienced an increase.

Recommendation

The Task Force believes this is a feature, not a bug, of the new system. Organizations are free to lobby the General Assembly if they believe they should be authorized to receive funding, and to work within counties to advocate for funding for their services. But the Task Force does not believe organizations should receive set percentages or amounts from assessments to fund their programs. Giving counties the flexibility to make those decisions provides for a more efficient system with greater accountability and flexibility.

Implementation Issue 8: Preventing Legislative Authorization of New Add-On Assessments

Why is this an issue?

The 2016 Report described the old system as "byzantine." And it was. Court assessments were scattered throughout the Illinois Complied Statutes without much organization or thought. This system had developed over time by individual assessments authorized by the General Assembly, all certainly enacted with good intentions. But without considering these assessments within the context of the entire assessment structure, the aggregate amounts charged outpaced inflation and the system became increasingly complex, confusing, and difficult to manage. The Task Force believes we should strive to avoid slipping back into such a system.

There is no simple fix to this problem. The General Assembly cannot prevent future General Assemblies from adding assessments outside the CTAA or Section 27.1b. And future General Assemblies with new members and staff will not know the history that led to enactment of the CTAA and Section 27.1b, so it is inevitable that someone at some point will seek to add an assessment outside the current structure.

Recommendation

The Task Force recommends that any future legislation amending the CTAA and Section 27.1b include findings that explain the history and purpose of those statutes so that future lawmakers will understand the importance of curbing increases in assessments and avoiding the creation of new assessments that are not subject to the overall limits created by those statutes. Any future legislation that increases or creates new assessments should also include a finding which explains how the assessment either defrays the cost of the litigation or directly relates to the administration of the court system.

Additionally, the Supreme Court, circuit clerks, and bar associations should vigilantly watch for new legislation that would add an assessment outside the current structure. When such legislation is introduced, those parties should lobby the General Assembly to ensure that, if additional assessments are authorized, they should be placed in the CTAA or Section 27.1b and should be required to adhere to the overall caps on assessments contained in those provisions.

II. Issues Regarding Court Assessments That Were Not Identified by the First Statutory Court Fee Task Force

The New Initiatives Committee was tasked with considering potential additional measures intended to address problems identified by the original Task Force, as well as related problems. After considering 16 potential initiatives, the Committee focused on the following seven subjects:

1. The varying Federal Poverty Level thresholds for partial and total waivers of assessments in civil and criminal cases;

2. The accounting fee and reporting fee charged to guardians in guardianship cases for disabled adults and children;

3. Assessments imposed in delinquency proceedings in Juvenile Court;

4. Collection practices regarding unpaid assessments;

5. Assessments imposed on defendants sentenced to the Department of Corrections;

6. Assessments that are not tied to court-related services and, therefore, may violate the free access clause of the Illinois Constitution; and

7. A process for moving toward a unified and assessment-free court system.

Each of these subjects was assigned to smaller subgroups of the New Initiatives Committee for further investigation and development of proposed legislation. The resulting recommendations were ultimately reviewed and adopted by the Task Force, with some modifications and refinements. The seven new initiatives are discussed below.

New Initiative 1: Assessments and Fines in Juvenile Delinquency Cases

Issue

Should assessments and fines be eliminated, or should waivers be allowed, in juvenile delinquency cases?

Why is this an issue?

A wide range of assessments are currently authorized in juvenile delinquency cases. These include assessments for probation, supervision, DNA testing, detention, legal representation, and diversion. In practice, there is a great deal of variation from county to county regarding the extent to which assessments are imposed. Across the board, relatively small amounts of revenue are generated from juvenile assessments, and often little if any attempt is made to collect outstanding juvenile assessment balances.[5]

Research has found that assessments and fines in juvenile delinquency cases can undermine the goal of achieving rehabilitation and successful reentry into the community by leaving youths with significant debt and prolonging their involvement in the justice system.[6] [7] [8] Inability to pay assessments has also been associated with a significant increase in the likelihood of recidivism.

---

[5] Data obtained by the Task Force's Data Collection and Analysis Committee indicates that less than a third of Illinois counties impose any assessments or fines in juvenile delinquency cases. Only a handful of counties collected a total of more than $1,000 in assessments and fines during any of the last five years, and no county collected a total of more than $10,000 over that five-year period.

[6] National Juvenile Defender Center, *The Cost of Juvenile Probation: A Critical Look into Juvenile Supervision Fees* https://njdc.info/wp-content/uploads/2017/08/NJDC_The-Cost-of-Juvenile-Probation.pdf.

[7] Policy Advocacy Clinic, Berkeley Law School, "Making Families Pay: The Harmful, Unlawful, And Costly Practice of Charging Juvenile Administrative Fees in California," (2017): University of California, Berkeley. https://www.law.berkeley.edu/wp-content/uploads/2019/12/State-Juvenile-Fees-Report_revised12-10-19-.pdf.

[8] Juvenile Law Center, *Debtors' Prison for Kids? The High Cost of Fines and Fees in the Juvenile Justice System* (2016) http://debtorsprison.jlc.org/documents/jlc-debtors-prison.pdf.

The additional stressor of the assessments and fines, especially when imposed without a determination of the youth's ability to pay, can adversely affect the youth's trust in the fairness of the justice system and even reduce the youth's compliance with orders and sentencing conditions.[9] Research has further found that states like Illinois that hold the parent and youth jointly liable can create divisiveness within the family during a time when family engagement is crucial to the rehabilitation of the youth and the youth's successful reintegration into the community.[10]

Juvenile assessments may also have disproportionate adverse effects on families living in poverty and families of color. Juvenile assessments can force low-income families to choose between paying the assessments and paying for necessities such as food, clothing, shelter, healthcare, and education.[11] In the juvenile court system, youths living in poverty may face harsher consequences than their more well-off peers since poor children are less likely to pay juvenile assessments, which may result in contempt of court, probation violations, recidivism ,and even additional fees.[12] Based on available arrest and detention data, youth of color in Illinois make up disproportionately higher number of arrests and detentions than white youth.[13] It is likely then that families of color in Illinois bear a disproportionate burden of juvenile assessments.

With respect to court assessments, as in all other contexts, the justice system is required to protect the special vulnerabilities of children.[14] In order to ensure children are

---

[9] *See* fn. 6, above.

[10] *Id.*

[11] *Id.*

[12] See fn. 8, above.

[13] Illinois Juvenile Justice Center, *FY19 Illinois Disproportionate Minority Contact (DMC) Compliance Plan* (2019) https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/IL-Y18-DMC-PLAN_508.pdf

[14] United States Department of Justice, *Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on Levying Fines and Fees on Juveniles Fees* (2017), https://www.ojp.gov/sites/g/files/xyckuh241/files/archives/documents/AdvisoryJuvFinesFees.pdf

protected in this context, the Office of Access to Justice of the U.S. Department of Justice issued the following recommendations:

1. Juvenile justice agencies should presume that young people are unable to pay fines and fees and only impose them after an affirmative showing of ability to pay.

2. Before juvenile justice agencies punish youth for failing to pay fines and fees, they must first determine ability to pay, considering factors particularly applicable to youth.

3. Juvenile justice agencies should not condition entry into a diversion program or another alternative to adjudication on the payment of a fee if the youth or the youth's family is unable to pay the fee.

4. Juvenile justice agencies should collect data on race, national origin, sex, and disability to determine whether the imposition of fines and fees has an unlawful disparate impact on juveniles or their families.

5. Juvenile justice agencies should consider whether the imposition or enforcement of fines and fees in any particular case comports with the rehabilitative goals of the juvenile justice system.14

Since 2015, 21 states have reduced or eliminated assessments imposed on youths and families in juvenile cases. One additional state, New York, has never charged assessments in juvenile cases.

Recommendation

The Task Force recommends that legislation be enacted abolishing assessments and fines in juvenile delinquency cases, but preserving juveniles' liability for restitution and for assessments in traffic cases. Senate Bill 3621, which was filed in the spring 2022 legislative session of the 102nd General Assembly, was designed to accomplish that objective. The Task Force recommends that the General Assembly pass legislation substantially in the form of SB 3621.

The "substantially in the form" qualification to this recommendation primarily reflects the reality that SB 3621 was a lengthy piece of legislation (90 pages) that is likely to be re-filed during the 103rd General Assembly. The Task Force believes the heart of the legislation was well-conceived and well-drafted. The Task Force strongly urges that it be enacted.

New Initiative 2: Fee for Guardian Reports

Issue

Reports by guardians of disabled adults and children may be ordered by the court pursuant to the Probate Act. 755 ILCS 5/11a-17. There is a $25 fee for filing this report. 705 ILCS 105/27/1b(v)(1).

Why is this an issue?

Assuming guardianship of a disabled adult or child is a significant responsibility—emotionally, physically, and financially. Even though guardians may seek reasonable compensation for guardianship duties, in practice many do not or there may be insufficient assets in the estate from which to be paid. Most guardians are family members of the disabled adult or child, and most are self-represented after being appointed.

A report must be filed every year, along with payment of the $25 fee, until the disabled adult or child emerges from guardianship or dies.

Recommendation

The Task Force considered whether the availability of fee waivers offered a solution to this issue. Fee waivers are available in guardianship cases. However, fee waivers are only in effect for a year, which would require obtaining an annual renewal in addition to filing the annual report. See 735 ILCS 5/5-105(f).

The amount of money collected from this fee is small. The largest case management system vendor in Illinois cannot provide an estimate for this revenue because it is not

tracked separately from other miscellaneous circuit clerk fees. However, in 2021, DuPage County collected approximately $20,000, McHenry County collected approximately $11,000, and Winnebago County collected approximately $3,000 in fees in guardianship cases.

The Task Force recommends the annual fee in guardianship cases be removed from the Clerk of Courts Act by revising 705 ILCS 105/27.1b(v) as follows:

> (v) Probate filings.
>
> (1) For each account (other than one final account) filed in the estate of a decedent, ~~or ward,~~ the fee shall not exceed $25. No fee shall be charged for accounts filed for guardianships established for minors pursuant to Article XI of the Probate Act or for disabled adults pursuant to Article XIa of the Probate Act.

This proposed statutory amendment is included in Appendix G.

New Initiative 3: Debt Collection Fees

Issue

There are a host of authorized assessments relating to efforts by circuit court clerks to collect outstanding obligations. The issue is whether all of those assessments are warranted.

Why is this an issue?

Any additional assessments imposed on civil litigants impede their access to the courts. Any additional assessments imposed on criminal defendants, while ostensibly not intended to punish, are indistinguishable from the defendant's standpoint from fines that are intended to punish, and in some instances may be more punitive because assessments cannot be worked off through community service.

There are two ways circuit clerks collect outstanding obligations. The first is by using the Illinois Office of the Comptroller's Local Debt Recovery Program (IDROP). 15 ILCS 405/10.05-10.05D. To use the IDROP program, circuit court clerks submit a data file listing outstanding debt. IDROP intercepts state payouts to the obligor, including wages,

tax refunds, and lottery winnings. For each successful intercept, the Comptroller assesses a fee of $15 or $20 to the obligor.

Circuit clerks also use the State's Attorney's Office to collect outstanding obligations. 730 ILCS 5/5-9-3(e). The State's Attorney may charge an additional 30% of the outstanding balance as a fee. Many State's Attorney's offices have outsourced this function to private companies in exchange for the 30% collection fee.

The only cost to the circuit clerk for collections work is the minor expense of creating the debt file and uploading it to the Comptroller or private debt collector. However, collections can bring in significant amounts of money. For example, in 2020, DuPage County collected over $1 million from both types of collection activities, and both Winnebago and McHenry counties collect hundreds of thousands of dollars per year. This money is used to pay obligations owed to municipal governments and third-party vendor services, as well as county and court clerk services.

There are two additional statutory provisions that add more financial penalties to obligors who do not make payments on their court debts. 705 ILCS 105/27.1b(j-5) allows the circuit clerk to collect an additional flat fee of $35-$65 depending on the amount of the debt. Despite the statutory authorization, not all circuit clerks assess this additional amount. 705 ILCS 105/27.1b(y-5) and 725 ILCS 5/124A-10, allow the circuit clerk to charge an additional 5% to 15% of the outstanding balance of fees to defray administrative costs. Not all circuit clerks assess these additional charges, either.

Recommendation

The Task Force believes that it is excessive for there to be two potential charges on delinquent accounts in addition to the collection fees charged by IDROP or the State's Attorney. The Task Force recommends that 705 ILCS 105/27.1b(y-5) and the provisions of 725 ILCS 5/124A-10 relating to additional fees be repealed. The repeals will operate prospectively only. This recommendation is not intended to require clerks to recalculate delinquency fees and unpaid balances that are already in debt collection, nor to refund any debt collection fees that have already been collected.

(705 ILCS 105/27.1b)

* * *

~~(y-5) Unpaid fees. Unless a court ordered payment schedule is implemented or the fee requirements of this Section are waived under a court order, the clerk of the circuit court may add to any unpaid fees and costs under this Section a delinquency amount equal to 5% of the unpaid fees that remain unpaid after 30 days, 10% of the unpaid fees that remain unpaid after 60 days, and 15% of the unpaid fees that remain unpaid after 90 days. Notice to those parties may be made by signage posting or publication. The additional delinquency amounts collected under this Section shall be deposited into the Circuit Court Clerk Operations and Administration Fund and used to defray additional administrative costs incurred by the clerk of the circuit court in collecting unpaid fees and costs.~~

(725 ILCS 5/124A-10)

Sec. 124A-10. Lien. The property, real and personal, of a person who is convicted of an offense shall be bound, and a lien is created on the property, both real and personal, of every offender, not exempt from the enforcement of a judgment or attachment, from the time of finding the indictment at least so far as will be sufficient to pay the fine and costs of prosecution. The clerk of the court in which the conviction is had shall upon the expiration of 30 days after judgment is entered issue a certified copy of the judgment for any fine that remains unpaid, and all costs of conviction remaining unpaid. ~~Unless a court ordered payment schedule is implemented, the clerk of the court may add to any judgment a delinquency amount equal to 5% of the unpaid fines, costs, fees, and penalties that remain unpaid after 30 days, 10% of the unpaid fines, costs, fees, and penalties that remain unpaid after 60 days, and 15% of the unpaid fines, costs, fees, and penalties that remain unpaid after 90 days.~~ Notice to those parties affected may be made by signage posting or publication. The clerk of the court may also after a period of 90 days release to credit reporting agencies, information regarding unpaid amounts. ~~The additional delinquency amounts collected under this Section shall be used to defray additional administrative costs incurred by the clerk of the court in collecting unpaid fines, costs, fees, and penalties.~~ The certified copy of the

judgment shall state the day on which the arrest was made or indictment found, as the case may be. Enforcement of the judgment may be directed to the proper officer of any county in this State. The officer to whom the certified copy of the judgment is delivered shall levy the judgment upon all the estate, real and personal, of the defendant (not exempt from enforcement) possessed by him or her on the day of the arrest or finding the indictment, as stated in the certified copy of the judgment and any such property subsequently acquired; and the property so levied upon shall be advertised and sold in the same manner as in civil cases, with the like rights to all parties that may be interested in the property. It is not an objection to the selling of any property under the judgment that the defendant is in custody for the fine or costs, or both.

These proposed statutory amendments are contained in Appendix H.

New Initiative 4: Assessments and Fines Imposed on Defendants Sentenced to the Department of Corrections

Issue

Should assessments and fines be reduced or eliminated for defendants sentenced to the Department of Corrections (DOC)?

Why is this an issue?

Defendants convicted of felonies can accumulate large amounts of court assessments. Defendants who are released after completing a sentence in the DOC face the daunting prospect of trying to reintegrate into society, including finding employment and housing. Indebtedness poses a significant obstacle to this process. This issue is well-documented. For example, a Brennan Center report from 2010 found that criminal justice debt significantly hobbles a person's chances to reenter society successfully after a conviction.[15]

[15] A. Bannon, M. Nagrecha, and R. Diller, *Criminal Justice Debt: A Barrier to Reentry*¸ Brennan Center for Justice (2010).

The Task Force attempted to weigh the adverse impact of assessments on recidivism and defendants' ability to reintegrate into society, against the potential financial impact on counties of eliminating these assessments with respect to defendants sentenced to the DOC. The Task Force sought data regarding the relationship between the length of defendants' sentences and the amount of financial obligations incurred and paid. While statewide data was unavailable, data from DuPage, McHenry, and Winnebago counties indicates that defendants sentenced to a prison term between one and eight years have a payment rate ranging between 15% and 25%. For sentences over eight years, the payment rate drops to approximately 5%.

The Task Force attempted to determine what portion of the payments were made using cash bond. It was determined that a substantial portion (as high as 90%) of the payments are made from available cash bond.

Recommendation

The Task Force recommends that defendants sentenced to the Department of Corrections earn a reduction in the amount of assessments (*i.e.*, court costs and fees) and fines tied to the length of their prison sentence. There would be a reduction in the amount of assessments and fines of 20% for each year of a sentence, with defendants sentenced to a prison term of five or more years earning a 100% reduction. This recommendation is designed to simultaneously avoid burdening defendants sentenced to prison with significant prison debt, reduce barriers to their successful reentry into society following their release from custody, and relieve court officials of the administrative burden of tracking indebtedness that is rarely collected, all without imposing any significant financial impact on counties because of the poor prospects for collecting those assessments and fines.

For the unusual situations in which a defendant sentenced to a prison term does have the wherewithal to pay the full amount of assessments and fines, the recommended legislation contains a provision allowing the State's Attorney to file a motion seeking to exclude the reduction or elimination of liability for assessments and fines from the defendant's sentence. The court would then be tasked with determining whether the defendant is reasonably able to pay the full amount of the assessments and fines, with due regard for their current income, anticipated income while incarcerated (if any),

current assets and liabilities, and the anticipated cost, while they are incarcerated, of supporting persons who will remain dependent on them for support.

The Task Force believes that a defendant's financial responsibility for restitution is warranted to reimburse a victim for an actual realized loss from the actions of the defendant. Consequently, a defendant's liability for providing restitution is excluded from the recommended reduction or elimination of their liability for assessments and fines. Reducing or eliminating liability for assessments and fines is also expected to promote defendants' ability to pay restitution.

A copy of the proposed legislation effecting this recommendation is contained in Appendix I.

New Initiative 5: Eligibility Guidelines for Assessment Waivers in Civil Litigation

Issue

Should the eligibility guidelines for full or partial assessment waivers in civil cases be modified to mirror the more generous eligibility guidelines for full or partial assessment waivers in criminal cases?

Why is this an issue?

Section 5-105 of the Code of Civil Procedure authorizes full waivers of assessments in civil actions for persons whose income is 125% or less of the federal poverty level ("FPL"), or who are receiving assistance under specified means-based government public benefits programs, or whose payment of assessments would result in substantial hardship to the person or his or her family. Persons with income between 125% and 150% of the FPL are eligible for a 75% waiver; persons with income between 150% and 175% of the FPL are eligible for a 50% waiver; and persons with income between 175% and 200% of the FPL are eligible for a 25% waiver. 735 ILCS 5/5-105(b).

The eligibility criteria for assessment waivers in criminal cases are more generous. Section 124A-20 of the Code of Criminal Procedure authorizes full assessment waivers for persons whose income is 200% or less of the FPL, or who are receiving assistance under

specified means-based government public benefits programs, or whose payment of assessments would result in substantial hardship to the person or his or her family. Persons with income between 200% and 250% of the FPL are eligible for a 75% waiver; persons with income between 250% and 300% of the FPL are eligible for a 50% waiver; and persons with income between 300% and 400% of the FPL are eligible for a 25% waiver. 725 ILCS 5/124A-20(b).

Cost is a significant barrier to access to the civil justice system. Aside from the potential budgetary impact, it is difficult to justify having two separate guidelines.

Recommendation

While most members of the Task Force believe the waiver thresholds should be the same for civil and criminal cases, the Task Force does not recommend implementing this change without first determining the budgetary impact on counties. As previously noted, counties rely on assessments from civil cases to help fund court operations, including the circuit clerk's office. Rather than assume that counties can absorb the loss of income that might be created by changing the waiver thresholds, the Task Force recommends that (1) professionals be engaged to determine the financial impact of changing the waiver thresholds in civil cases to correspond with those applicable to criminal cases[16]; (2) a plan be devised to compensate counties for the anticipated loss of income; and (3) legislation be drafted that (a) brings the eligibility guidelines for assessment waivers in civil cases in line with those for criminal cases, while (b) compensating counties for the projected loss of income.

New Initiative 6: Review of Assessments That May Violate the Free Access Clause of the Illinois Constitution

Issue

---

[16] The Task Force gratefully acknowledges Stout, a global investment bank and advisory firm, for helping analyze this issue. Led by Neil Steinkamp, Stout examined the potential incremental annual financial impact that could arise by aligning the civil fee waiver schedule with the criminal fee waiver schedule. A copy of Stout's analysis is available from the Access to Justice Division of the Administrative Office of the Illinois Courts, https://www.illinoiscourts.gov/aoic/access-to-justice/.

Should the General Assembly identify and repeal assessments that may violate the free access clause of the Illinois Constitution?

Why is this an issue?

In *Walker v. Chasteen*, 2021 IL 126086, the Supreme Court held that the add-on filing fee on mortgage foreclosure complaints contained in Section 15-1504.1 of the Code of Civil Procedure (735 ILCS 5/15-1504.1) violated the free access clause of the Illinois Constitution, Ill. Const. 1970 art. I, § 12. Enacted as part of the "Save Our Neighborhoods Act" in response to the mortgage foreclosure crisis, the legislation authorizing the fee directed that those funds be used to support the Foreclosure Program Prevention Fund and the Abandoned Residential Property Fund, including by subsidizing grants to housing counseling agencies, foreclosure prevention services, and municipalities for such things as cutting grass, removing garbage and graffiti, and erecting fencing at abandoned properties.

In striking down the mortgage foreclosure fee, the Supreme Court reaffirmed its holding in *Crocker v. Finley,* 99 Ill. 2d 444, 451 (1984), that a charge imposed on a litigant is a permissible fee if assessed to defray the expenses of the litigation. On the other hand, a charge having no relation to the court services rendered is a litigation tax that violates the free access and due process clauses of the Illinois Constitution unless it is imposed for purposes related to the operation and maintenance of the courts.

Like the domestic violence filing fee in *Crocker*, the Supreme Court concluded that the mortgage foreclosure filing fee in *Walker* was actually a litigation tax, as it bore no direct relation to the expenses of the litigation or to the services rendered. Because that tax was a revenue-raising measure designed to fund a statewide social program, which had no direct relation to the administration of the court system, the Court held that the fee unreasonably interfered with foreclosure litigants' access to the courts in violation of the free access clause of the Illinois Constitution.

Recommendation

The Task Force recommends that the General Assembly convene a legislative working group to review the list of civil statutory add-on fees located in Appendix F to ensure

consistency with the standard set out in *Crocker* and affirmed in *Walker*. Any fees which do not defray the expenses of litigation should be considered litigation taxes which run afoul of the free access clause of the Illinois Constitution unless they have a direct relationship to the administration of the court system. Litigation taxes which are merely designed to raise revenue to fund non-court-related social welfare programs should be repealed, and if the resulting revenue loss is problematic alternate funding sources for the affected programs should be identified. Any fees contained in Appendix F that are not repealed, due to the concerns identified in *Crocker* and *Walker* or for any other reason, should be moved into the CTAA or Section 27.1b, as provided in Implementation Recommendation No. 5.

New Initiative 7: Working Toward a Unified, Assessment-Free Court System

Issue

Should our state work to adopt a mechanism to "fully fund" the court system (a "unified" court system) and reduce or eliminate the use of assessments as a source of revenue?

Why is this an issue?

Access to justice is a fundamental right that should be provided and protected by the State. The justice system benefits all of the state's residents, not just those who come in contact with it. It should, therefore, be funded by all of the residents. The current system of funding disproportionately falls on those who use the system even though the system benefits everyone.

The Illinois Judicial Conference Court Funding Task Force ("Court Funding Task Force") was charged with determining the complete cost of the court system and identifying and explaining the multiple sources of funding, including answering key questions about court system funding, what the court system costs now, and where funding comes from. In its January 2021 Progress Report to the Judicial Conference, the Court Funding Task Force determined that from a funding perspective, the state court system can be broken down into four broad categories: Personnel, Physical Space, Technology, and Other Needs and Services.

While financing the state court system is a shared responsibility between the State of Illinois and its 102 counties, the Court Funding Task Force found that most of the funding responsibility is borne by the counties. For Fiscal Year 2019, the total amount of revenue for the Illinois court system from all sources was approximately $2.1 billion, as against expenditures of roughly $2.3 billion. More than half of that revenue came from counties. Approximately $151.6 million, or roughly seven percent (7%) of total revenues, was generated from court assessments.[17]

Recommendation

The CTAA and Section 27.1b reduced the number of assessments, grouped assessments for criminal cases into categories with specified assessment amounts, grouped assessments for civil cases into categories with specified maximum assessment amounts, and expanded the use of waivers. While this has led to more transparent and understandable assessments, judges, court staff, and clerk's offices must still devote resources to the processes of fee determination, waiver, and collection. Even with the remaining assessments, under the current model of funding the expenditures of the court system will likely exceed its total revenue, resulting in underfunding of a co-equal and important branch of the State's government. A fully taxpayer-funded court system would allocate the costs of the state court system across all taxpayers rather than imposing a disproportionate burden on parties to court proceedings. All taxpayers benefit from a well-functioning judicial system. As was stated in a 2013 Illinois State Bar Association report on the funding crisis in the Illinois courts, "[p]ut simply, an effective civil and criminal court system is critical to the safety and well being of the people of this State."[18]

The Task Force recommends that all stakeholders develop a long-term funding plan for a unified Illinois court system that further reduces (or eliminates entirely) the use of assessments as a source of revenue.[19]

---

[17] Court Funding Task Force, *January 2021 Progress Report to the Judicial Conference,* Exhibit 3.

[18] *See Report on the Funding Crisis in the Illinois Courts*, https://www.americanbar.org/content/dam/aba/administrative/tips/Court%20Funding/Report%20on%20the%20Funding%20Crisis%20in%20the%20Illinois%20Courts.pdf.

[19] One member of the Task Force believes that consideration of the desirability of a unified court system exceeds the scope of this Task Force's charge.

Other states' funding models may provide a starting point. In 1997, the State of California eliminated separate county and state budgeting for the court system and gave the state primary responsibility for funding trial court operations. Following this consolidation, the Judicial Council in California worked toward a transparent model to distribute the branch's budget funds to the state's 58 trial courts. The judicial branch's "Workload Formula" determines the money a trial court receives based upon its workload; funding is based on the number of cases received as well as the types of cases handled annually.[20] Court filings are averaged over time to avoid funding swings that might come with a surge or decline in filings. The Judicial Council's committees review the formula and its application and recommend amendments.

Notably, the changes in the funding system in California did not eliminate criminal fines and fees or civil assessments. The judicial branch of California has, however, advocated for a funding structure that ends its reliance on fines and fees from court users.[21] The Task Force recommends that the State of Illinois adopt a similar long-term goal regarding assessments.

---

[20] *See* Judicial Council of California, Budget and Finance, https://www.courts.ca.gov/finance.htm.

[21] *See, e.g.*, Judicial Branch of California, *California's Judicial Branch Budget Process*, https://newsroom.courts.ca.gov/branch-facts/californias-judicial-branch-budget-process ("The judicial branch has advocated for a three-branch (Executive–Legislative–Judicial) solution to this funding structure and its reliance on fines and fees from court users."); *see also* Commission on the Future of California's Court System, Report to the Chief Justice (2017), 183, https://www.courts.ca.gov/documents/futures-commission-final-report.pdf (recommending "[p]roviding alternative funding to adequately support the judicial system and thereby reduce or preferably eliminate reliance on fines and fees as a source of court funding").

III. Data Collection and Reporting Needed to Provide Empirical Basis for Additional Improvements

Accurate data is essential to evaluating the extent to which the CTAA and Section 27.1b are achieving their objectives, and to identifying opportunities for additional improvements. Many of the recommendations contained in this report are based on data developed by the Task Force's Data Collection & Analysis Committee to support the work of the Implementation Committee and the New Initiatives Committee. To that end, the Data Collection & Analysis Committee obtained data regarding certain topics from all 102 Illinois circuit clerks. When that data was unavailable, the Committee obtained data from a representative subset of counties. For other types of data, the Committee obtained information from the Conference of Chief Judges. The Committee also worked with the Judicial Management Information Services division of the Administrative Office of Illinois Courts (AOIC) to identify areas where better financial data should be gathered from the circuit clerks, including data required by each circuit clerk's annual financial "Report J."

Data Reporting Recommendation 1: Continuation and Expansion of Annual Reports by Circuit Court Clerks Regarding Assessments in Criminal and Traffic Proceedings

Issue

Should circuit court clerks be required to file annual reports with the AOIC containing detailed information relating to assessments in criminal and traffic proceedings?

Why is this an issue?

Section 1-10 of the CTAA required circuit clerks to file annual reports with the AOIC containing detailed information regarding, among other things, the number of various types of criminal and traffic cases that were filed, the number and amount of assessments imposed and collected, the number and amount of fines imposed and collected, the number of assessment waiver applications that were granted at each waiver level between 25 and 100 percent, and the amount of assessments that were waived. 705 ILCS 135/1-10. The CTAA only required assessment reports to be filed for

calendar year 2019, but reports were also filed for 2020 and 2021 pursuant to Supreme Court order.

Recommendation

The Task Force recommends revising Section 1-10 of the CTAA to require assessment reports for a calendar year to be filed no later than March 1 of the following year. The Task Force also recommends expanding the content of the reports to include the number of assessment waiver applications that are filed. Recommended statutory language is contained in Appendix J to this report.

Data Reporting Recommendation 2: Continuation and Expansion of Annual Reports by Circuit Court Clerks Regarding Assessments in Civil Cases

Issue

Should circuit court clerks be required to file annual reports with the AOIC containing detailed information relating to assessments in civil cases?

Why is this an issue?

Section 27.1c of the Clerk of Courts Act contains a reporting requirement for civil cases that is analogous to the reporting requirement for criminal and traffic cases contained in Section 1-10 of the CTAA. The primary difference from the CTAA provision is that Section 27.1c is not limited to 2019. However, both provisions did not originally contain a requirement that the number of assessment waiver applications be reported.

Recommendation

The Task Force recommends revising Section 27.1c to require reporting of the total number of civil cases in which assessment waivers were filed. Recommended statutory language is contained in Appendix K.

Data Reporting Recommendation 3: Continuation of Efforts by Circuit Clerks and the Judicial Management Information Services Division to Make Better Use of Assessment-Related Data Reported by the Clerks

Issue

Should the Supreme Court direct the AOIC's Judicial Management Information Services division (JMIS) to continue to work with circuit court clerks to make better use of assessment-related data reported by the clerks?

Why is this an issue?

The annual "Report J" filed by circuit court clerks includes detailed financial data on every assessment and fine collected by circuit clerks across the state. The JMIS division has undertaken a project to consolidate several data sets provided by circuit clerks, which will improve our long-term ability to identify the impact of the CTAA and Section 27.1b, as well as the projected impact of proposed legislation relating to assessments.

Recommendation

The Task Force recommends that the Supreme Court direct the JMIS Division of the AOIC to continue to work with the circuit clerks to make better use of the assessment data the clerks are reporting to the AOIC.

CONCLUSION

The legislation and court rules resulting from the efforts of the first Statutory Court Fee Task Force have enabled our State to make significant strides in terms of reducing barriers to access to justice associated with court assessments, addressing excessive variation in the amount of assessments charged in different counties, simplifying the system of assessments, and deterring the proliferation of additional assessments. Given the length and complexity of the CTAA and Section 27.1b, it was anticipated that issues would arise in implementing that legislation that would require subsequent legislative corrections. The nine Implementation Recommendations in this report effectively address those issues.

It was also recognized that additional areas remained in which future improvements to the system of assessments would be needed. Enactment of legislation implementing the seven New Initiative Recommendations will build on the progress that has already been achieved toward realizing the goals articulated by the first Task Force, while effectuation of the Data Collection and Reporting Recommendations will provide stakeholders with empirical information needed to evaluate the effectiveness of the current system and identify opportunities for future improvements.

The members of the Task Force recognize that, as was the case with the issuance of the first Task Force Report, issuance of this report does not mean that the Task Force's responsibilities have been discharged. The Task Force is committed to working with the General Assembly and the Supreme Court to help make implementation of the recommendations contained in these pages a reality through enactment of legislation and promulgation of court rules.

Dated: January 1, 2023 Respectfully submitted,

The Statutory Court Fee Task Force

Chirag G. Badlani	Hon. Eugene G. Doherty
Hon. Thomas M. Donnelly	Hon. Michael A. Fiello
Hon. David Friess	Hon. Katherine Keefe
Hon. Thomas A. Klein	Hon. Leroy K. Martin
Steven F. Pflaum, Chair	Jonathan Pilsner
Hon. Elizabeth A. Robb (Ret.)	Hon. Justin Slaughter
Hon. Brian W. Stewart	Adam Vaught

APPENDIX

ELIMINATION OF THE SUNSET PROVISIONS FROM THE CTAA AND SECTION 27.1B OF THE CLERK OF COURTS ACT

(705 ILCS 105/27.1b)

Sec. 27.1b. Circuit court clerk fees. ...

...

~~(aa) This Section is repealed on January 1, 2024.~~

(705 ILCS 135/20-5)

~~Sec. 20-5. Repeal. This Act is repealed on January 1, 2024.~~

CLARIFICATION OF DEFINITIONS IN THE CTAA

(705 ILCS 135/1-5)

Sec. 1-5. Definitions. In this Act:

* * *

"Case" means all charges and counts arising from the same act or incident filed against a single defendant which are being prosecuted by a single agency ~~as a single proceeding~~ before the court.

* * *

"Conditional assessments" means any costs imposed on a defendant under Section 15-70 of this Act.

"Court-supervised service provider" means any entity, facility, or other person that is directly or contractually supervised by the court and which provides services to the court, parties, or other persons in connection with a case.

"Court-supervised service provider costs" means any charges imposed in a case by a service provider in accordance with a court order.

* * *

"Non-court supervised ~~S~~service provider costs" means costs incurred as a result of services provided by a~~n~~ non-court supervised entity, facility, or other person, including, but not limited to, ~~traffic safety programs, laboratories,~~ ambulance companies~~,~~ and fire departments. ~~"Service provider costs" includes conditional amounts under this Act that are reimbursements for services provided.~~

(705 ILCS 135/5-15)

Sec. 5-15. Non-court supervised service provider costs. Unless otherwise provided in Article 15 of this Act, the defendant shall pay non-court supervised service provider costs to the entity that provided the service. Such costs are not eligible for credit for time served, substitution of community service, or waiver. The circuit court may, through administrative order or local rule, appoint the clerk of the court as the receiver and remitter of certain non-court supervised service provider costs ~~which may include, but are not limited to, probation fees, traffic school fees, or drug or alcohol testing fees~~.

(705 ILCS 135/15-70)

Sec. 15-70. Conditional assessments. In addition to payments under one of the Schedule of Assessments 1 through 13 of this Act, the court shall also order payment of any of the following conditional assessment amounts for each sentenced violation in the case to which a conditional assessment is applicable, which shall be collected and remitted by the Clerk of the Circuit Court as provided in this Section:

* * *

(20) Court-supervised service provider costs imposed in a case.

CLARIFICATION OF SCOPE OF ASSESSMENT WAIVERS

(725 ILCS 5/124A-20)

Sec. 124A-20. Assessment waiver.

(a) As used in this Section:

"Assessments" means any costs imposed on a criminal defendant under Article 15 of the Criminal and Traffic Assessment Act, but does not include violation of the Illinois Vehicle Code assessments except as provided in subsection (a-5); all fees set forth in Section 27.1b of the Clerks of Courts Act; fees for supplementary proceedings; charges for translation services; fees associated with preparation of a record on appeal, including court reporter fees; fees for record or case searches; fees for the reproduction of any document contained in the clerk's files; and all other processes and procedures deemed by the court to be necessary to defend a criminal action. "Assessments" does not include, and assessment waivers under this Section do not cover, non-court supervised service provider costs, as defined in Section 1-5 of the Criminal and Traffic Assessment Act.

* * *

(b) For assessment schedules and conditional assessments imposed on criminal offenses reflected in Schedules 1, 3, 4, 5, 7, and 8 of Article 15 of the Criminal and Traffic Assessment Act, upon the application of any defendant, after the commencement of an action, but no later than 30 days after sentencing:

(735 ILCS 5/5-105) (from Ch. 110, par. 5-105)

Sec. 5-105. Waiver of court fees, costs, and charges.

(a) As used in this Section:

(1) "Fees, costs, and charges" means payments imposed on a party in connection with the prosecution or defense of a civil action, ~~including, but not limited to~~ defined as: all fees set forth in Section 27.1b of the Clerks of Courts Act; fees for service of process and other papers served either within or outside this State, including service by publication pursuant to Section 2-206 of this Code and publication of necessary legal notices; motion fees; charges for participation in, or

attendance at, any mandatory process or procedure including, but not limited to, conciliation, mediation, arbitration, counseling, evaluation, "Children First", "Focus on Children" or similar programs; fees for supplementary proceedings; charges for translation services; guardian ad litem fees; fees associated with preparation of a record on appeal, including court reporter fees; fees for record or case searches; fees for the reproduction of any document contained in the clerk's files; and all other processes and procedures deemed by the court to be necessary to commence, prosecute, defend, or enforce relief in a civil action. "Fees, costs, and charges" does not include, and fee waivers under this Section do not cover, expenses incurred as a result of services provided by a non-court supervised entity, facility, or other person, including, but not limited to, real estate services, healthcare or mental health services, child care, or job placement assistance.

CLARIFICATION THAT ASSESSMENT WAIVERS CANNOT BE A CONDITION OF PLEA BARGAINS

(725 ILCS 5/124A-20)

Sec. 124A-20. Assessment waiver.

* * *

(h) No defendant shall be required to forego or waive his or her right to seek a waiver of assessments as a condition of any plea agreement.

CLARIFICATION OF PROCEDURE FOR SEEKING ASSESSMENT WAIVERS

Rule 298. Application for Waiver of Court Fees, Costs, and Charges

(a) Contents and Filing. An ~~Application for Waiver of Court Fees~~ application for waiver of court fees, costs, and charges in a civil action pursuant to 735 ILCS 5/5-105 shall be in writing and signed by the applicant or, if the applicant is a minor or an incompetent adult, by another person having knowledge of the facts.

(1) An applicant shall use the "Application for Waiver of Court Fees" form approved by the Illinois Supreme Court and the Supreme Court Commission on Access to Justice.

(~~1~~2) The ~~contents of the~~ Application (and supporting documents, if required,) must be sufficient to allow a court to determine whether an applicant qualifies for full or partial waiver of assessments pursuant to 735 ILCS 5/5-105~~, and shall include information regarding the applicant's household composition, receipt of need-based public benefits, income, expenses, and nonexempt assets~~.

~~(2) Applicants shall use the "Application for Waiver of Court Fees" adopted by the Illinois Supreme Court Access to Justice Commission, which can be found in the Article II Forms Appendix.~~

(3) No fee may be charged for filing an Application. Applications by persons who are exempt from electronic filing under Supreme Court Rule 9(c) may be filed in-person at the clerk of court, or by United States mail, third-party commercial carrier, deposit in a drop box receptacle maintained by the clerk, or any other means permitted by the local court. All other Applications shall be electronically filed.

(b) ~~Ruling~~. ~~The court shall either enter a ruling on the Application or set the Application for a hearing requiring the applicant to appear in person. The court may order the applicant to produce copies of specified documents in support of the Application at the hearing. The court's ruling on an Application for Waiver of Court Fees shall be made according to standards set forth in 735 ILCS 5/5-105. If the Application is denied, the court shall enter an order to that effect specifying the reasons for the denial. If the court determines that the conditions for a full assessment waiver under 735 ILCS 5/5-105(b)(1) are satisfied, it shall enter an order permitting the applicant to sue or defend without payment of assessments, costs or charges. If the court determines that the conditions for~~

~~a partial assessment waiver under 735 ILCS 5/5-105(b)(2) are satisfied, it shall enter an order permitting the applicant to sue or defend after payment of a specified percentage of assessments, costs, or charges. If an Application for a partial assessment waiver is granted, and if necessary to avoid undue hardship on the applicant, the court may allow the applicant to defer payment of assessments, costs, and charges, make installment payments or make payment upon reasonable terms and conditions stated in the order~~ **Supporting Documentation.** No supporting documentation of eligibility in addition to the Application is needed unless the county or circuit has adopted a local rule requiring it. Any such local rule may not require any more than the following:

(1) Government Benefit Recipients. An applicant who is currently receiving assistance under one or more of the means-based governmental public benefits may be required to provide a current benefits statement or other documentary proof of their receipt of benefits, but shall not be required to provide any additional information or documentation about their income, assets, debts, or expenses.

(2) **Other Applicants.** An applicant who is not receiving one or more of the means-based governmental public benefit may be required to provide financial information and supporting documentation including their most recent pay stubs from all employers, 1099s, and W-2s.

(c) ~~**Filing**. No fee may be charged for filing an Application for Waiver of Court Fees. The clerk must allow an applicant to file an Application for Waiver of Court Fees in the court where his case will be heard.~~ **Decision of Application.** Applications shall be decided as soon as reasonably possible in accordance with the following procedure:

(1) An Application shall be decided without a hearing if all relevant sections are complete (and, if applicable, it is supported by documents required by that jurisdiction pursuant to (b)(1)). If all the relevant sections or the Application are not complete or it is not accompanied by any required supporting documentation, outright denial is not permitted; the applicant must be notified of the deficiencies and given the opportunity to amend the application by providing the supporting documentation and/or be given a hearing.

(2) If the court schedules a hearing, it shall enter an order scheduling a remote hearing in accordance with Rule 45, within 30 days, unless the applicant requests an in-person hearing or will already be present at the courthouse on the date of the hearing. The order must state: (a) the specific eligibility questions that necessitate the hearing; (b) what documents, if any, must be submitted in support

of the Application at or before the hearing, and how to submit them; and (c) the remote hearing meeting ID and password or the courtroom location if in-person.

(3) An order deciding an Application, with or without a hearing, or scheduling a hearing, shall use the "Order for Waiver of Court Fees" form approved by the Illinois Supreme Court and the Supreme Court Commission on Access to Justice. The court's ruling on an Application for Waiver of Court Fees shall be made according to standards set forth in 735 ILCS 5/5-105. If the Application is denied, the court shall enter an order to that effect specifying the reasons for the denial. As provided in the form Order, if the court determines that the conditions for a full assessment waiver under 735 ILCS 5/5-105(b)(1) are satisfied, it shall enter an order permitting the applicant to sue or defend without payment of assessments, costs, or charges. If the court determines that the conditions for a partial assessment waiver under 735 ILCS 5/5-105(b)(2) are satisfied, it shall enter an order permitting the applicant to sue or defend after payment of a specified percentage of assessments, costs, or charges. If an Application for a partial assessment waiver is granted, and if necessary to avoid undue hardship on the applicant, the court may allow the applicant to defer payment of assessments, costs, and charges, make installment payments, or make payment upon reasonable terms and conditions stated in the order.

(4) The clerk shall provide one or more options for the applicant to obtain the court's ruling on the Application, including but not limited to mailing a copy of the court's ruling to the address on the Application, providing notification via email or text as requested by the applicant.

(d) Filing and Retention of Supporting Documentation. Any documents submitted in support of an Application shall be filed under seal. The clerk shall not be required to retain paper copies of any such documents.

(~~d~~e) **Cases involving representation by civil legal services provider or lawyer in court-sponsored pro bono program**. In any case where a party is represented by a civil legal services provider or attorney in a court-sponsored pro bono program as defined in 735 ILCS 5/5-105.5, the attorney representing that party shall file a certification with the court, and that party shall be allowed to sue or defend without payment of fees~~assessments~~, costs, or charges as defined in 735 ILCS 5/5-105(a)(1) without necessity of an Application under this rule. Instead, the attorney representing the party shall file a certification prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article II Forms Appendix.

Committee Comment

Paragraph (b)(1)

Applicants receiving assistance under one or more of the means-based governmental public benefits programs are not required to provide any additional financial information because they have been screened, reviewed, and approved by the relevant government agency and regular recertification is required to maintain that benefit.

Rule 404. Application for Waiver of Court Assessments

(a) Contents and Filing. An Application for Waiver of Court Assessments in a criminal action pursuant to 725 ILCS 5/124A-20 shall be in writing and signed by the applicant or, if the applicant is a minor or an incompetent adult, by another person having knowledge of the facts. The Application should be submitted no later than 30 days after sentencing.

(1) An applicant shall use the "Application for Waiver of Criminal Court Assessments" form approved by the Illinois Supreme Court and the Supreme Court Commission on Access to Justice.

(~~1~~2) The ~~contents of the~~ Application (and supporting documents, if required,) must be sufficient to allow a court to determine whether an applicant qualifies for full or partial waiver of assessments pursuant to 725 ILCS 5/124A20~~, and shall include information regarding the applicant's household composition, receipt of need-based public benefits, income, expenses, and nonexempt assets~~.

~~(2) Applicants shall use the "Application for Waiver of Court Assessments" adopted by the Illinois Supreme Court Access to Justice Commission, which can be found in the Article IV Forms Appendix.~~

(3) No fee may be charged for filing an Application. Applications by persons who are exempt from electronic filing under Supreme Court Rule 9(c) may be filed in-person at the clerk of court, or by United States mail, third-party commercial carrier, deposit in a drop box receptacle maintained by the clerk, or any other means permitted by the local court. All other Applications shall be electronically filed.

(b) Ruling ~~The court shall either enter a ruling on the Application or shall set the Application for a hearing requiring the applicant to appear in person. The court may order the applicant to produce copies of certain documents in support of the Application at the hearing. The court's ruling on an Application for Waiver of Assessments shall be made according to standards set forth in 725 ILCS 5/124A-20. If the Application is denied, the court shall enter an order to that effect specifying the reasons for the denial. If the court determines that the conditions for a full assessment waiver are satisfied under 725 ILCS 5/124A-20(b)(1), it shall enter an order waiving the payment of the assessments. If the court determines that the conditions for a partial assessment waiver under 725 ILCS 5/124A-20(b)(2) are satisfied, it shall enter an order for payment of a specified percentage of the assessments. If an Application is denied or an Application for a partial assessment waiver is granted, the court may allow the applicant to defer payment of the assessments, make installment payments, or make payment upon reasonable terms and conditions stated in the order.~~ **Supporting Documentation**. No supporting documentation of eligibility in addition to the application is needed unless the county or circuit has adopted a local rule requiring it. Any such local rule may not require any more than the following:

(1) **Government Benefit Recipients.** An applicant who is currently receiving assistance under one or more of the means-based governmental public benefits may be required to provide a current benefits statement or other documentary proof of their receipt of benefits, but shall not be required to provide any additional information or documentation about their income, assets, debts, or expenses.

(2) **Other Applicants.** An applicant who is not receiving a means-based governmental public benefit shall provide financial information and supporting documentation including their most recent pay stubs from all employers, 1099s, and W-2s.

(c) Filing~~. No fee may be charged for filing an Application for Waiver of Court Assessments. The clerk must allow an applicant to file an Application for Waiver of Court Assessments in the court where his case will be heard.~~ **Decision of Application.** Applications shall be decided as soon as reasonably possible in accordance with the following procedure:

(1) An Application shall be decided without a hearing if all relevant sections are complete (and, if applicable, it is supported by documents required by that jurisdiction pursuant to (b)(1)). If all of the relevant sections of the Application are not complete or it is not accompanied by any required supporting documentation, outright denial is not permitted; the applicant must be notified of the deficiencies

and given the opportunity to amend the Application by providing the supporting documentation and/or be given a hearing.

(2) If the court schedules a hearing, it shall enter an order scheduling a remote hearing in accordance with Rule 45, within 30 days, unless the applicant requests an in-person hearing or will already be present at the courthouse on the date of the hearing. The order must state: (a) the specific eligibility questions that necessitate the hearing; (b) what documents, if any, must be submitted in support of the Application at or before the hearing, and how to submit them; and (c) the remote hearing meeting ID and password or the courtroom location if in-person.

(3) An order deciding an Application, with or without a hearing, or scheduling a hearing, shall use the "Order for Waiver of Criminal Court Assessments" form approved by the Illinois Supreme Court and the Supreme Court Commission on Access to Justice. The court's ruling on an Application for Waiver of Assessments shall be made according to standards set forth in 725 ILCS 5/124A-20. As provided in the form Order, if the Application is denied, the court shall enter an order to that effect specifying the reasons for the denial. If the court determines that the conditions for a full assessment waiver are satisfied under 725 ILCS 5/124A-20(b)(1), it shall enter an order waiving the payment of assessments. If the court determines that the conditions for a partial assessment waiver under 725 ILCS 5/124A-20(b)(2) are satisfied, it shall enter an order for payment of a specified percentage of the assessments. If an Application is denied or an Application for a partial assessment waiver is granted, the court may allow the applicant to defer payment of the assessments, make installment payments, or make payment upon reasonable terms and conditions stated in the order.

(d) Filing and Retention of Supporting Documentation. Any documents submitted in support of an Application shall be filed under seal. The clerk shall not be required to retain paper copies of any such documents.

(~~d~~e) Cases involving representation by public defenders, criminal legal services providers, or attorneys in court-sponsored pro bono program. In any case where a ~~party~~ defendant is represented by a public defender, criminal legal services provider, or an attorney in a court-sponsored pro bono program, the attorney representing that ~~party~~ defendant shall file a certification with the court, and that ~~party~~ defendant shall be entitled to a waiver of assessments as defined ~~allowed to proceed without payment of assessments~~ in 725 ILCS 5/124A-20(a) without necessity of an Application under this rule. "Criminal legal services provider" means a not-for-profit corporation that (i) employs one or more attorneys who are licensed to practice law in the State of Illinois and who directly

provide free criminal legal services or (ii) is established for the purpose of providing free criminal legal services by an organized panel of pro bono attorneys. "Court-sponsored pro bono program" means a pro bono program established by or in partnership with a court in this State for the purpose of providing free criminal legal services by an organized panel of pro bono attorneys.

Committee Comments

Paragraph (b)(1)

Applicants receiving assistance under one or more of the means-based governmental public benefits programs are not required to provide any additional financial information because they have been screened, reviewed, and approved by the relevant government agency and regular recertification is required to maintain that benefit.

Paragraph (c)

The procedure prescribed by paragraph (c) is intended to prohibit the practice of deferring ruling on an Application for Waiver of Court Assessments until after completion of the sentence. Criminal Assessments must be imposed by the court at the time of sentencing. Where possible, a ruling on whether the defendant qualifies for a full or partial waiver should also be determined at the time of sentencing, or within a reasonable time thereafter if the defendant submits an Application under paragraph (a) or a certification under paragraph (d) after sentencing.

ASSESSMENTS NOT CURRENTLY INCLUDED IN CTAA OR SECTION 27.1B

Statute	Civil Schedules	Criminal Schedules	Notes
55 ILCS 5/5-1101.3	AR, CH, DC, DN, ED, EV, FA, FC, GC, GR, LA, LM, MH, MR, PR, SC, TX	CF, CM, CV, DT, DV, MT, OV, QC, TR	Judicial Facilities Fee CC, CL,OP
55 ILCS 5/5-39001	AR, CH, DC, DN, ED, EV, FA, FC, GC, GR, LA, LM, MH, MR, PR, SC, TX		Law Library Fee OP
55 ILCS 82/15	AR, CH, DC, DN, ED, EV, FA, FC, GC, GR, LA, LM, MH, MR, PR, SC, TX		Custody Exchange Fee OP
65 ILCS 5/7-1-2	GC		Annexation Clerk's Fee (Filing Fee)
65 ILCS 5/11-31-1(b)	MR		Demolition Filing Fee
215 ILCS 5/203	AR, CH, DC, DN, ED, EV, FA, FC, GC, GR, LA, LM, MH, MR, PR, SC, TX (insurance code only)		Insurance Director Fees
430 ILCS 66/70(e)		CF/CM	FOID Card
705 ILCS 105/27.3f	GR/PR (decedent)		Guardianship and Advocacy Operations Fee
705 ILCS 105/27.9(a)	MX	CF	Frivolous Lawsuit Fee

Statute	Civil Schedules	Criminal Schedules	Notes
705 ILCS 130/15	AR, CH, DC, DN, ED, EV, FA, FC, GC, GR, LA, LM, MH, MR, PR, SC, TX		Domestic Relations Fee OP
710 ILCS 20/3	AR, CH, DC, DN, ED, EV, FA, FC, GC, GR, LA, LM, MH, MR, PR, SC, TX		Dispute Resolution Fee OP
720 ILCS 5/11-1.10(e)		CF (sex crimes)	HIV Test Cost
720 ILCS 5/12-5.2(g)	CH (limited)	CF, CM (limited)	Property Improvement Fee
725 ILCS 5/110-7(i)		CF, CM, CV, DT, DV, MT, OV, QC, TR	FTA Warrant Fee (repealed)
725 ILCS 5/110-10(b)(14.1)		CF, CM, DT	Pretrial Home Monitoring
725 ILCS 5/110-10(b)(14.2)		CF, CM, DT	Pretrial Home Monitoring
730 ILCS 5/5-5-3(g) & (h)		CF, CM	STD Cost
730 ILCS 5/5-5-10		CF, CM, DV, DT, DV, MT., OV, QC, TR	Community Service Fee JD
730 ILCS 5/5-6-3(b)(10)(iv) & (v)		CF, CM, DT, DV, MT	Post Conviction Home Monitoring
730 ILCS 5/5-6-3(g)		CF, CM, CV, DT, DV, MT, QC, TR	Drug/Alcohol Testing Monitoring

Statute	Civil Schedules	Criminal Schedules	Notes
730 ILCS 5/5-6-3(h) & (i)		CF, CM, CV, DT, DV, MT, QC, TR	Probation Fee
730 ILCS 5/5-6-3.1(g)		CM, CV, DT, DV, MT, QC, TR	Drug/Alcohol Testing Monitoring
730 ILCS 5/5-6-3.1(i) & (u)		CF, CM, CV, DT, DV, MT, QC, TR	Probation Fee JD
730 ILCS 5/5-7-1(g) & (h)		CF, CM CV, DT, DV, MT	Drug/Alcohol Testing Monitoring
730 ILCS 5/5-9-1.13		CF, CM, DT, DV, MT	Out of state transfer fee
730 ILCS 5/5-9-1.16(c)		CF, CM	DV Equipment Fee
730 ILCS 5/5-9-1.22		CF, DT (DUI)	Roadside Memorial Fee
735 ILCS 5/4-124	AR, CH, DC, DN, ED, EV, FA, FC, GC, GR, LA, LM, MH, MR, PR, SC		Livestock Cost
735 ILCS 5/12-655	AR, CH, DC, DN, Ed, EV, FA, FC, GC, GR, LA, LM, MH, MR, PR, SC, TX		Foreign Judgment Clerk's Fee OP
735 ILCS 5/15-1504.1	FC		Foreclosure Fee Unconstitutional
735 ILCS 5/15-1504.1(a-5)	FC		Foreclosure Tier Fee Unconstitutional
750 ILCS 5/705(6) 750 ILCS 5/711	DC, FA, GR		Public Aid Child Support Fee

Statute	Civil Schedules	Criminal Schedules	Notes
750 ILCS 50/12a	FA		Notice to Putative Father Clerk's Fee
765 ILCS 102/31	MR		County Clerk's Fee (Lost goods)

ELIMINATION OF ANNUAL FEE IN GUARDIANSHIP PROCEEDINGS INVOLVING FOR MINORS AND DISABLED ADULTS

(705 ILCS 105/27.1b)

Sec. 27.1b. Circuit court clerk fees....

* * *

(v) Probate filings.

(1) For each account (other than one final account) filed in the estate of a decedent, ~~or ward,~~ the fee shall not exceed $25. No fee shall be charged for accounts filed for guardianships established for minors pursuant to Article XI of the Probate Act or for disabled adults pursuant to Article XIa of the Probate Act.

* * *

ELIMINATION OF DUPLICATIVE COLLECTION FEES REGARDING UNPAID ASSESSMENTS

(705 ILCS 105/27.1b)

Sec. 27.1b. Circuit court clerk fees....

* * *

~~(y-5) Unpaid fees. Unless a court ordered payment schedule is implemented or the fee requirements of this Section are waived under a court order, the clerk of the circuit court may add to any unpaid fees and costs under this Section a delinquency amount equal to 5% of the unpaid fees that remain unpaid after 30 days, 10% of the unpaid fees that remain unpaid after 60 days, and 15% of the unpaid fees that remain unpaid after 90 days. Notice to those parties may be made by signage posting or publication. The additional delinquency amounts collected under this Section shall be deposited into the Circuit Court Clerk Operations and Administration Fund and used to defray additional administrative costs incurred by the clerk of the circuit court in collecting unpaid fees and costs.~~

(725 ILCS 5/124A-10)

Sec. 124A-10. Lien. The property, real and personal, of a person who is convicted of an offense shall be bound, and a lien is created on the property, both real and personal, of every offender, not exempt from the enforcement of a judgment or attachment, from the time of finding the indictment at least so far as will be sufficient to pay the fine and costs of prosecution. The clerk of the court in which the conviction is had shall upon the expiration of 30 days after judgment is entered issue a certified copy of the judgment for any fine that remains unpaid, and all costs of conviction remaining unpaid. ~~Unless a court ordered payment schedule is implemented, the clerk of the court may add to any judgment a delinquency amount equal to 5% of the unpaid fines, costs, fees, and penalties that remain unpaid after 30 days, 10% of the unpaid fines, costs, fees, and penalties that remain unpaid after 60 days, and 15% of the unpaid fines, costs, fees, and penalties that remain unpaid after 90 days.~~ Notice to those parties affected may be made by

signage posting or publication. The clerk of the court may also after a period of 90 days release to credit reporting agencies, information regarding unpaid amounts. ~~The additional delinquency amounts collected under this Section shall be used to defray additional administrative costs incurred by the clerk of the court in collecting unpaid fines, costs, fees, and penalties.~~ The certified copy of the judgment shall state the day on which the arrest was made or indictment found, as the case may be. Enforcement of the judgment may be directed to the proper officer of any county in this State. The officer to whom the certified copy of the judgment is delivered shall levy the judgment upon all the estate, real and personal, of the defendant (not exempt from enforcement) possessed by him or her on the day of the arrest or finding the indictment, as stated in the certified copy of the judgment and any such property subsequently acquired; and the property so levied upon shall be advertised and sold in the same manner as in civil cases, with the like rights to all parties that may be interested in the property. It is not an objection to the selling of any property under the judgment that the defendant is in custody for the fine or costs, or both.

EARN-DOWN REDUCTION OF ASSESSMENTS AND FINES FOR DEFENDANTS SENTENCED TO THE DEPARTMENT OF CORRECTIONS

Section 124A-25 is added to the Code of Criminal Procedure, 725 ILCS 5/124A-25, to read as follows:

(725 ILCS 5/124A-25)

Sec. 124A-25. Earn-down reduction of assessments imposed on defendants sentenced to the Department of Corrections.

(a) As used in this Section:

(1) "Assessments" means any costs imposed on a criminal defendant under Article 15 of the Criminal and Traffic Assessment Act, including but not limited to assessments relating to violations of the Illinois Vehicle Code, after the application of any income-based waiver under Section 124A-20.

(2) "Prison term" means the longest term of imprisonment to which a defendant is sentenced in a case, either for a single offense or in the aggregate for multiple offenses that run consecutively, and without regard to any credit for time served in custody, home detention, or for any other reason.

(b) The court shall, without application, reduce the total amount of assessments imposed on a defendant who is sentenced to a term of imprisonment in that case, as follows:

(1) 20% for a prison term of at least one year but less than two years;

(2) 40% for a prison term of at least two years but less than three years;

(3) 60% for a prison term of at least three years but less than four years;

(4) 80% for a prison term of at least four years but less than five years; and

(5) 100% for a prison term of five or more years.

(c) The State's Attorney may file a motion to eliminate any reduction in assessments, pursuant to subsection (b), in the sentence of a defendant whom the State's Attorney believes is reasonably capable of paying the full amount of the assessments. The decision whether to deny the motion or to require the defendant to provide information bearing on their ability to pay the assessments is committed to the sound discretion of the court. If the court requires the defendant to provide such information:

(1) Unless the defendant has already done so, the court shall order the defendant to complete the "Application for Waiver of Criminal Court Assessments" approved by the Illinois Supreme Court;

(2) The motion shall be denied if the defendant provides a current benefits statement or other documentary proof of their receipt of assistance under one or more of the means-based governmental public benefits programs listed in 725 ILCS 5/124A-20(c)(1). Such a defendant shall not be required to provide any additional information about their income, assets, debts, or expenses.

(3) A defendant who is not receiving a means-based governmental public benefit shall provide financial information and supporting documentation relating to the factors listed in 725 ILCS 5/124A-20(c)(1)(2-6), including their most recent pay stubs from all employers, 1099s, and W-2s.

(4) The court may decline to reduce, pursuant to subsection (b), the amount of assessments imposed on the defendant if the court enters a written finding that there is clear and convincing evidence that the defendant can afford to pay the full amount of the

assessments, after considering the defendant's current income, anticipated income while incarcerated (if any), current assets and liabilities, and the anticipated cost, while the defendant is incarcerated, of supporting persons who will remain dependent on the defendant for support.

Section 5-9-1 of the Unified Code of Corrections, 730 ILCS 5/5-9-1, is revised to read as follows:

(730 ILCS 5/5-9-1)

Sec. 5-9-1. Authorized Fines.

(a) An offender may be sentenced to pay a fine as provided in Article 4.5 of Chapter V, subject to subsection (f) of this section.

* * *

(f) The court shall, without application, reduce the total amount of fines imposed on an offender who is sentenced to a term of imprisonment as follows:

(1) 20% for a prison term of at least one year but less than two years;

(2) 40% for a prison term of at least two years but less than three years;

(3) 60% for a prison term of at least three years but less than four years;

(4) 80% for a prison term of at least four years but less than five years; and

(5) 100% for a prison term of five or more years.

(g) For purposes of paragraph (f), "prison term" means the longest term of imprisonment to which an offender is sentenced in a case, either for a single offense or in the aggregate for multiple offenses that run consecutively, and without regard to any credit for time served in custody, home detention, or for any other reason.

(h) The State's Attorney may file a motion to eliminate any reduction in fines, pursuant to subsection (f), in the sentence of an offender whom the State's Attorney believes is reasonably capable of paying the full amount of the fines. The decision whether to deny the motion or to require the offender to provide information bearing on their ability to pay the fines is committed to the sound discretion of the court. If the court requires the offender to provide such information:

(1) Unless the offender has already done so, the court shall order the offender to complete the "Application for Waiver of Criminal Court Assessments" approved by the Illinois Supreme Court;

(2) The motion shall be denied if the offender provides a current benefits statement or other documentary proof of their receipt of assistance under one or more of the means-based governmental public benefits programs listed in 725 ILCS 5/124A-20(c)(1). Such an offender shall not be required to provide any additional information about their income, assets, debts, or expenses.

(3) An offender who is not receiving a means-based governmental public benefit shall provide financial information and supporting documentation relating to the factors listed in 725 ILCS 5/124A-20(c)(1)(2-6), including their most recent pay stubs from all employers, 1099s, and W-2s.

(4) The court may decline to reduce, pursuant to subsection (f), the total amount of fines imposed on the offender if the court enters a written finding determining that there is clear and convincing evidence that the offender can afford to pay the full amount of the fines, after considering the offender's current income, anticipated income while incarcerated (if any), current assets and liabilities, and the anticipated cost, while the offender is incarcerated, of supporting persons who will remain dependent on the offender for support.

CIRCUIT COURT CLERK ASSESSMENT REPORTS FOR CRIMINAL CASES

(705 ILCS 135/1-10)

~~(Section scheduled to be repealed on January 1, 2024)~~

Sec. 1-10. Assessment reports.

(a) Not later than ~~February 29, 2020,~~March 1 of each year, the clerk of the circuit court shall file with the Administrative Office of the Illinois Courts, in the form and manner directed by the Supreme Court, a report for the previous calendar year containing, in accordance with the Supreme Court's General Administrative Order on Recordkeeping in the Circuit Courts:

(1) ~~a report for the period July 1, 2019 through December 31, 2019 containing~~ the total number of cases filed in the following categories: total felony cases; felony driving under the influence of alcohol, drugs, or a combination thereof; cases that contain at least one count of driving under the influence of alcohol, drugs, or a combination thereof; felony cases that contain at least one count of a drug offense; felony cases that contain at least one count of a sex offense; total misdemeanor cases; misdemeanor driving under the influence of alcohol, drugs, or a combination thereof cases; misdemeanor cases that contain at least one count of a drug offense; misdemeanor cases that contain at least one count of a sex offense; total traffic offense counts; traffic offense counts of a misdemeanor offense under the Illinois Vehicle Code; traffic offense counts of an overweight offense under the Illinois Vehicle Code; traffic offense counts that are satisfied under Supreme Court Rule 529; conservation cases; and ordinance cases that do not contain an offense under the Illinois Vehicle Code;

(2) ~~a report for the period July 1, 2019 through December 31, 2019 containing~~ the following for each schedule referenced in Sections 15-5 through 15-70 of this Act: the number of offenses for which assessments were imposed; the amount of any fines imposed in addition to assessments; the number and amount of conditional assessments ordered pursuant to Section 15-70; the total number of assessment waiver applications filed under Section 124A-20 of the Code of Criminal Procedure; and the number of applications for 25%, 50%, 75%, and 100% waivers, respectively, that were approved, the number of offenses for which waivers were granted, and the associated amount of assessments that were waived; and

(3) ~~a report for the period July 1, 2019 through December 31, 2019 containing,~~ with respect to each schedule referenced in Sections 15-5 through 15-70 of this Act~~,~~: the number of offenses for which assessments were collected; the number of offenses for which fines were collected and the amount collected; and how much was disbursed to each fund under the disbursement requirements for each schedule defined in Section 15-5.

(b) The Administrative Office of the Illinois Courts shall publish the reports submitted under this Section on its website.

(c) A list of offenses that qualify as drug offenses for Schedules 3 and 7 and a list of offenses that qualify as sex offenses for Schedules 4 and 8 shall be distributed to clerks of the circuit court by the Administrative Office of the Illinois Courts.

CIRCUIT COURT CLERK ASSESSMENT REPORTS FOR CIVIL CASES

(705 ILCS 105/27.1c)

Sec. 27.1c. Assessment reports.

(a) Not later than ~~March 1, 2022, and~~ March 1 of ~~every~~ each year ~~thereafter~~, the clerk of the circuit court shall submit to the Administrative Office of the Illinois Courts an annual report, in the form and manner directed by the Supreme Court, for the period January 1 through December 31 of the previous year. The report shall contain, with respect to each of the 4 categories of civil cases established by the Supreme Court pursuant to Section 27.1b of this Act, and in accordance with the Supreme Court's General Administrative Order on Recordkeeping in the Circuit Courts:

(1) the total number of cases that were filed;

(2) the amount of filing fees that were collected pursuant to subsection (a) of Section 27.1b;

(3) the amount of appearance fees that were collected pursuant to subsection (b) of Section 27.1b;

(4) the amount of fees collected pursuant to subsection (b-5) of Section 27.1b;

(5) the amount of filing fees collected for counterclaims or third party complaints pursuant to subsection (c) of Section 27.1b;

(6) the nature and amount of any fees collected pursuant to subsection (y) of Section 27.1b; ~~and~~

(7) the total number of applications, pursuant to Section 5-105 of the Code of Civil Procedure, for waiver of court fees, costs, and charges; and

(~~7~~8) the number of ~~cases for which~~ applications, pursuant to Section 5-105 of the Code of Civil Procedure, ~~there were waivers~~ for waiver of fees, costs, and charges of 25%, 50%, 75%, or 100%, respectively, that were approved, and the associated amount of fees, costs, and charges that were waived.

(b) The Administrative Office of the Illinois Courts shall publish the reports submitted under this Section on its website.

~~(c) (Blank).~~