

SB0108



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB0108

Introduced 1/17/2025, by Sen. Javier L. Cervantes

SYNOPSIS AS INTRODUCED:

725 ILCS 5/124A-20

Amends the Code of Criminal Procedure of 1963. Provides that in the assessment waiver provisions, defines "assessments" to include assessments in a county having a population of more than 3,000,000. Deletes a provision that states the provision is inoperative on and after July 1, 2024 that provides that in a county having a population of more than 3,000,000, "assessments" means any costs imposed on a criminal defendant under the Assessment Schedules Article of the Criminal and Traffic Assessment Act, including violation of the Illinois Vehicle Code assessments.

LRB104 03328 RLC 13350 b

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 124A-20 as follows:

6 (725 ILCS 5/124A-20)

7 Sec. 124A-20. Assessment waiver.

8 (a) As used in this Section:

9 "Assessments" means any costs imposed on a criminal
10 defendant under Article 15 of the Criminal and Traffic
11 Assessment Act, but does not include violation of the Illinois
12 Vehicle Code assessments except in a county having a
13 population of more than 3,000,000 ~~as provided in subsection~~
14 ~~(a-5)~~.

15 "Indigent person" means any person who meets one or more
16 of the following criteria:

17 (1) He or she is receiving assistance under one or
18 more of the following means-based governmental public
19 benefits programs: Supplemental Security Income; Aid to
20 the Aged, Blind and Disabled; Temporary Assistance for
21 Needy Families; Supplemental Nutrition Assistance Program;
22 General Assistance; Transitional Assistance; or State
23 Children and Family Assistance.

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

7 (3) He or she is, in the discretion of the court,
8 unable to proceed in an action with payment of assessments
9 and whose payment of those assessments would result in
10 substantial hardship to the person or his or her family.

11 "Poverty level" means the current poverty level as
12 established by the United States Department of Health and
13 Human Services.

14 (a-5) (Blank). ~~In a county having a population of more~~
15 ~~than 3,000,000, "assessments" means any costs imposed on a~~
16 ~~criminal defendant under Article 15 of the Criminal and~~
17 ~~Traffic Assessment Act, including violation of the Illinois~~
18 ~~Vehicle Code assessments. This subsection is inoperative on~~
19 ~~and after July 1, 2024.~~

20 (b) For criminal offenses reflected in Schedules 1, 3, 4,
21 5, 7, and 8 of Article 15 of the Criminal and Traffic
22 Assessment Act, upon the application of any defendant, after
23 the commencement of an action, but no later than 30 days after
24 sentencing:

25 (1) If the court finds that the applicant is an
26 indigent person, the court shall grant the applicant a

1 full assessment waiver exempting him or her from the
2 payment of any assessments.

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

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

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

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

1 of the assessments.

2 (b-5) For traffic and petty offenses reflected in
3 Schedules 2, 6, 9, 10, and 13 of Article 15 of the Criminal and
4 Traffic Assessment Act, upon the application of any defendant,
5 after the commencement of an action, but no later than 30 days
6 after sentencing, the court shall grant the applicant a
7 partial assessment as follows:

8 (1) 50% of all assessments shall be waived if the
9 court finds that the applicant is an indigent person or if
10 the applicant's available income is not greater than 200%
11 of the poverty level, unless the applicant's assets that
12 are not exempt under Part 9 or 10 of Article XII of the
13 Code of Civil Procedure are such that the applicant is
14 able, without undue hardship, to pay the total
15 assessments.

16 (2) 37.5% of all assessments shall be waived if the
17 applicant's available income is greater than 200% but no
18 more than 250% of the poverty level, unless the
19 applicant's assets that are not exempt under Part 9 or 10
20 of Article XII of the Code of Civil Procedure are such that
21 the applicant is able, without undue hardship, to pay the
22 total assessments.

23 (3) 25% of all assessments shall be waived if the
24 applicant's available income is greater than 250% but no
25 more than 300% of the poverty level, unless the
26 applicant's assets that are not exempt under Part 9 or 10

1 of Article XII of the Code of Civil Procedure are such that
2 the court determines that the applicant is able, without
3 undue hardship, to pay a greater portion of the
4 assessments.

5 (4) 12.5% of all assessments shall be waived if the
6 applicant's available income is greater than 300% but no
7 more than 400% of the poverty level, unless the
8 applicant's assets that are not exempt under Part 9 or 10
9 of Article XII of the Code of Civil Procedure are such that
10 the court determines that the applicant is able, without
11 undue hardship, to pay a greater portion of the
12 assessments.

13 (c) An application for a waiver of assessments shall be in
14 writing, signed by the defendant or, if the defendant is a
15 minor, by another person having knowledge of the facts, and
16 filed no later than 30 days after sentencing. The contents of
17 the application for a waiver of assessments, and the procedure
18 for deciding the applications, shall be established by Supreme
19 Court Rule. Factors to consider in evaluating an application
20 shall include:

21 (1) the applicant's receipt of needs based
22 governmental public benefits, including Supplemental
23 Security Income (SSI); Aid to the Aged, Blind and Disabled
24 (AABD); Temporary Assistance for Needy Families (TANF);
25 Supplemental Nutrition Assistance Program (SNAP or "food
26 stamps"); General Assistance; Transitional Assistance; or

1 State Children and Family Assistance;

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

4 (3) income received from the applicant's pension,
5 Social Security benefits, unemployment benefits, and other
6 sources;

7 (4) income received by the applicant from other
8 household members;

9 (5) the applicant's monthly expenses, including rent,
10 home mortgage, other mortgage, utilities, food, medical,
11 vehicle, childcare, debts, child support, and other
12 expenses; and

13 (6) financial affidavits or other similar supporting
14 documentation provided by the applicant showing that
15 payment of the imposed assessments would result in
16 substantial hardship to the applicant or the applicant's
17 family.

18 (d) The clerk of court shall provide the application for a
19 waiver of assessments to any defendant who indicates an
20 inability to pay the assessments. The clerk of the court shall
21 post in a conspicuous place in the courthouse a notice, no
22 smaller than 8.5 x 11 inches and using no smaller than 30-point
23 typeface printed in English and in Spanish, advising criminal
24 defendants they may ask the court for a waiver of any court
25 ordered assessments. The notice shall be substantially as
26 follows:

1 "If you are unable to pay the required assessments,
2 you may ask the court to waive payment of them. Ask the
3 clerk of the court for forms."

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

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

13 (g) The provisions of this Section are severable under
14 Section 1.31 of the Statute on Statutes.

15 (Source: P.A. 102-558, eff. 8-20-21; 102-620, eff. 8-27-21.)