

1 AN ACT concerning appointment of counsel in capital cases
2 with multiple defendants.

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

5 Section 5. The Code of Criminal Procedure of 1963 is
6 amended by changing Section 113-3 as follows:

7 (725 ILCS 5/113-3) (from Ch. 38, par. 113-3)

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

18 (b) In all cases, except where the penalty is a fine
19 only, if the court determines that the defendant is indigent
20 and desires counsel, the Public Defender shall be appointed
21 as counsel. If there is no Public Defender in the county or
22 if the defendant requests counsel other than the Public
23 Defender and the court finds that the rights of the defendant
24 will be prejudiced by the appointment of the Public Defender,
25 the court shall appoint as counsel a licensed attorney at law
26 of this State, except that in a county having a population of
27 2,000,000 or more the Public Defender shall be appointed as
28 counsel in all misdemeanor cases where the defendant is
29 indigent and desires counsel unless the case involves
30 multiple defendants, in which case the court may appoint
31 counsel other than the Public Defender for the additional

1 defendants. In capital cases with multiple defendants, the
2 Public Defender may be appointed to represent only one
3 defendant; each defendant must have his or her own counsel,
4 either retained by the defendant or appointed by the court.

5 The court shall require an affidavit signed by any defendant
6 who requests court-appointed counsel. Such affidavit shall
7 be in the form established by the Supreme Court containing
8 sufficient information to ascertain the assets and
9 liabilities of that defendant. The Court may direct the
10 Clerk of the Circuit Court to assist the defendant in the
11 completion of the affidavit. Any person who knowingly files
12 such affidavit containing false information concerning his
13 assets and liabilities shall be liable to the county where
14 the case, in which such false affidavit is filed, is pending
15 for the reasonable value of the services rendered by the
16 public defender or other court-appointed counsel in the case
17 to the extent that such services were unjustly or falsely
18 procured.

19 (c) Upon the filing with the court of a verified
20 statement of services rendered the court shall order the
21 county treasurer of the county of trial to pay counsel other
22 than the Public Defender a reasonable fee. The court shall
23 consider all relevant circumstances, including but not
24 limited to the time spent while court is in session, other
25 time spent in representing the defendant, and expenses
26 reasonably incurred by counsel. In counties with a
27 population greater than 2,000,000, the court shall order the
28 county treasurer of the county of trial to pay counsel other
29 than the Public Defender a reasonable fee stated in the order
30 and based upon a rate of compensation of not more than \$40
31 for each hour spent while court is in session and not more
32 than \$30 for each hour otherwise spent representing a
33 defendant, and such compensation shall not exceed \$150 for
34 each defendant represented in misdemeanor cases and \$1250 in

1 felony cases, in addition to expenses reasonably incurred as
2 hereinafter in this Section provided, except that, in
3 extraordinary circumstances, payment in excess of the limits
4 herein stated may be made if the trial court certifies that
5 such payment is necessary to provide fair compensation for
6 protracted representation. A trial court may entertain the
7 filing of this verified statement before the termination of
8 the cause, and may order the provisional payment of sums
9 during the pendency of the cause.

10 (d) In capital cases, in addition to counsel, if the
11 court determines that the defendant is indigent the court
12 may, upon the filing with the court of a verified statement
13 of services rendered, order the county Treasurer of the
14 county of trial to pay necessary expert witnesses for
15 defendant reasonable compensation stated in the order not to
16 exceed \$250 for each defendant.

17 (e) If the court in any county having a population
18 greater than 2,000,000 determines that the defendant is
19 indigent the court may, upon the filing with the court of a
20 verified statement of such expenses, order the county
21 treasurer of the county of trial, in such counties having a
22 population greater than 2,000,000 to pay the general expenses
23 of the trial incurred by the defendant not to exceed \$50 for
24 each defendant.

25 (f) The provisions of this Section relating to
26 appointment of counsel, compensation of counsel, and payment
27 of expenses in capital cases apply except when the
28 compensation and expenses are being provided under the
29 Capital Crimes Litigation Act.

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