



Sen. Chapin Rose

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1 AMENDMENT TO SENATE BILL 903

2 AMENDMENT NO. _____. Amend Senate Bill 903 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Capital Crimes Litigation Act of 2019.

6 Section 5. Appointment of trial counsel in death penalty
7 cases. If an indigent defendant is charged with an offense for
8 which a sentence of death is authorized, and the State's
9 Attorney has not, at or before arraignment, filed a certificate
10 indicating he or she will not seek the death penalty or stated
11 on the record in open court that the death penalty will not be
12 sought, the trial court shall immediately appoint the Public
13 Defender, or any other qualified attorney or attorneys as the
14 Illinois Supreme Court shall by rule provide, to represent the
15 defendant as trial counsel. If the Public Defender is
16 appointed, he or she shall immediately assign the attorney or

1 attorneys who are public defenders to represent the defendant.
2 The counsel shall meet the qualifications as the Supreme Court
3 shall by rule provide. At the request of court-appointed
4 counsel in a case in which the death penalty is sought,
5 attorneys employed by the State Appellate Defender may enter an
6 appearance for the limited purpose of assisting counsel
7 appointed under this Section.

8 Section 10. Court-appointed trial counsel; compensation
9 and expenses.

10 (a) This Section applies only to compensation and expenses
11 of trial counsel appointed by the court as set forth in Section
12 5, other than public defenders, for the period after
13 arraignment and so long as the State's Attorney has not, at any
14 time, filed a certificate indicating he or she will not seek
15 the death penalty or stated on the record in open court that
16 the death penalty will not be sought.

17 (a-5) Litigation budget.

18 (1) If the State has filed a statement of intent to
19 seek the death penalty, the court shall require appointed
20 counsel, including those appointed in Cook County, after
21 counsel has had adequate time to review the case and prior
22 to engaging trial assistance, to submit a proposed
23 estimated litigation budget for court approval, that will
24 be subject to modification in light of facts and
25 developments that emerge as the case proceeds. Case budgets

1 should be submitted ex parte and filed and maintained under
2 seal in order to protect the defendant's right to effective
3 assistance of counsel, the defendant's right not to
4 incriminate him or herself, and all applicable privileges.
5 Case budgets shall be reviewed and approved by the judge
6 assigned to try the case. As provided under subsection (c),
7 petitions for compensation shall be reviewed by both the
8 trial judge and the presiding judge or the presiding
9 judge's designee.

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

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

23 (A) the hourly rate at which counsel will be
24 compensated;

25 (B) the hourly rate at which private
26 investigators, other than investigators employed by

1 the Office of the State Appellate Defender, will be
2 compensated; and

3 (C) the best preliminary estimate that can be made
4 of the cost of all services, including, but not limited
5 to, counsel, expert, and investigative services that
6 are likely to be needed through the guilt and penalty
7 phases of the trial. The court shall have discretion to
8 require that budgets be prepared for shorter intervals
9 of time.

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

24 (5) An approved budget shall guide counsel's use of
25 time and resources by indicating the services for which
26 compensation is authorized. The case budget shall be

1 re-evaluated when justified by changed or unexpected
2 circumstances and shall be modified by the court when
3 reasonable and necessary for an adequate defense. If an ex
4 parte hearing is requested by defense counsel or deemed
5 necessary by the trial judge prior to modifying a budget,
6 the ex parte hearing shall be before the presiding judge or
7 the presiding judge's designee.

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

1 chief judge of each judicial circuit.

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

1 kept under seal and shall be exempt from Freedom of Information
2 requests until the conclusion of the trial, even if the
3 prosecution chooses not to pursue the death penalty prior to
4 trial or sentencing. If an ex parte hearing is requested by
5 defense counsel or deemed necessary by the trial judge, the
6 hearing shall be before the presiding judge or the presiding
7 judge's designee.

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

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

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

18 Section 15. Capital Litigation Trust and Death Penalty
19 Abolition Fund.

20 (a) The Capital Litigation Trust and Death Penalty
21 Abolition Fund shall be administered by the State Treasurer to
22 provide moneys for the appropriations to be made, grants to be
23 awarded, and compensation and expenses to be paid under this
24 Act. All interest earned from the investment or deposit of
25 moneys accumulated in the Trust Fund shall, under Section 4.1

1 of the State Finance Act, be deposited into the Trust Fund.

2 (b) Moneys deposited into the Trust Fund shall not be
3 considered general revenue of the State of Illinois.

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

14 (d) Every fiscal year the State Treasurer shall transfer
15 from the General Revenue Fund to the Capital Litigation Trust
16 and Death Penalty Abolition Fund an amount equal to the full
17 amount of moneys appropriated by the General Assembly (both by
18 original and supplemental appropriation), less any unexpended
19 balance from the previous fiscal year, from the Capital
20 Litigation Trust and Death Penalty Abolition Fund for the
21 specific purpose of making funding available for the
22 prosecution and defense of capital cases and for the litigation
23 expenses associated with post-conviction proceedings in
24 capital cases under Article 122 of the Code of Criminal
25 Procedure of 1963 and in relation to petitions filed under
26 Section 2-1401 of the Code of Civil Procedure in relation to

1 capital cases. The Public Defender and State's Attorney in Cook
2 County, the State Appellate Defender, the State's Attorneys
3 Appellate Prosecutor, and the Attorney General shall make
4 annual requests for appropriations from the Trust Fund.

5 (1) The Public Defender in Cook County shall request
6 appropriations to the State Treasurer for expenses
7 incurred by the Public Defender and for funding for private
8 appointed defense counsel in Cook County.

9 (2) The State's Attorney in Cook County shall request
10 an appropriation to the State Treasurer for expenses
11 incurred by the State's Attorney.

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

1 (4) The State's Attorneys Appellate Prosecutor shall
2 request a direct appropriation from the Trust Fund to pay
3 expenses incurred by the State's Attorneys Appellate
4 Prosecutor and an appropriation to the State Treasurer for
5 payments from the Trust Fund for expenses incurred by
6 State's Attorneys in counties other than Cook County.

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

25 (e) Moneys in the Trust Fund shall be expended only as
26 follows:

1 (1) To pay the State Treasurer's costs to administer
2 the Trust Fund. The amount for this purpose may not exceed
3 5% in any one fiscal year of the amount otherwise
4 appropriated from the Trust Fund in the same fiscal year.

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

1 (3) To pay the compensation of trial attorneys, other
2 than public defenders or appellate defenders, who have been
3 appointed by the court to represent defendants who are
4 charged with capital crimes or attorneys approved by or
5 contracted with the State Appellate Defender to represent
6 petitioners in post-conviction proceedings in capital
7 cases under Article 122 of the Code of Criminal Procedure
8 of 1963 and in relation to petitions filed under Section
9 2-1401 of the Code of Civil Procedure in relation to
10 capital cases.

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

1 investigatory and other assistance and expert, forensic,
2 or other witnesses under this Section may request that the
3 State's Attorneys Appellate Prosecutor or the Attorney
4 General, as the case may be, certify the expenses as
5 reasonable, necessary, and appropriate for payment from
6 the Trust Fund, on a form created by the State Treasurer.
7 Upon certification of the expenses and delivery of the
8 certification to the State Treasurer, the Treasurer shall
9 pay the expenses directly from the Capital Litigation Trust
10 and Death Penalty Abolition Fund if there are sufficient
11 moneys in the Trust Fund to pay the expenses.

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

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

26 (7) To provide financial support to the State Appellate

1 Defender under the State Appellate Defender Act. Moneys
2 expended from the Trust Fund shall be in addition to county
3 funding for Public Defenders and State's Attorneys, and
4 shall not be used to supplant or reduce ordinary and
5 customary county funding.

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

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

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

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

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

1 funds have been made for expenses that are reasonable,
2 necessary, and appropriate for payment from the Trust Fund.

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

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

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

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

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

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

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

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

1 (c) (5.1) of Section 10 of the State Appellate Defender Act:

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

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

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

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

25 (j) If the Trust Fund is discontinued or dissolved by an
26 Act of the General Assembly or by operation of law, any balance

1 remaining in the Trust Fund shall be returned to the General
2 Revenue Fund after deduction of administrative costs, any other
3 provision of this Act to the contrary notwithstanding.

4 Section 90. The Freedom of Information Act is amended by
5 changing Section 7.5 as follows:

6 (5 ILCS 140/7.5)

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

10 (a) All information determined to be confidential
11 under Section 4002 of the Technology Advancement and
12 Development Act.

13 (b) Library circulation and order records identifying
14 library users with specific materials under the Library
15 Records Confidentiality Act.

16 (c) Applications, related documents, and medical
17 records received by the Experimental Organ Transplantation
18 Procedures Board and any and all documents or other records
19 prepared by the Experimental Organ Transplantation
20 Procedures Board or its staff relating to applications it
21 has received.

22 (d) Information and records held by the Department of
23 Public Health and its authorized representatives relating
24 to known or suspected cases of sexually transmissible

1 disease or any information the disclosure of which is
2 restricted under the Illinois Sexually Transmissible
3 Disease Control Act.

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

6 (f) Firm performance evaluations under Section 55 of
7 the Architectural, Engineering, and Land Surveying
8 Qualifications Based Selection Act.

9 (g) Information the disclosure of which is restricted
10 and exempted under Section 50 of the Illinois Prepaid
11 Tuition Act.

12 (h) Information the disclosure of which is exempted
13 under the State Officials and Employees Ethics Act, and
14 records of any lawfully created State or local inspector
15 general's office that would be exempt if created or
16 obtained by an Executive Inspector General's office under
17 that Act.

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

22 (j) Information and data concerning the distribution
23 of surcharge moneys collected and remitted by carriers
24 under the Emergency Telephone System Act.

25 (k) Law enforcement officer identification information
26 or driver identification information compiled by a law

1 enforcement agency or the Department of Transportation
2 under Section 11-212 of the Illinois Vehicle Code.

3 (l) Records and information provided to a residential
4 health care facility resident sexual assault and death
5 review team or the Executive Council under the Abuse
6 Prevention Review Team Act.

7 (m) Information provided to the predatory lending
8 database created pursuant to Article 3 of the Residential
9 Real Property Disclosure Act, except to the extent
10 authorized under that Article.

11 (n) Defense budgets and petitions for certification of
12 compensation and expenses for court appointed trial
13 counsel as provided under Sections 10 and 15 of the Capital
14 Crimes Litigation Act of 2019. This subsection (n) shall
15 apply until the conclusion of the trial of the case, even
16 if the prosecution chooses not to pursue the death penalty
17 prior to trial or sentencing.

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

21 (p) Security portions of system safety program plans,
22 investigation reports, surveys, schedules, lists, data, or
23 information compiled, collected, or prepared by or for the
24 Regional Transportation Authority under Section 2.11 of
25 the Regional Transportation Authority Act or the St. Clair
26 County Transit District under the Bi-State Transit Safety

1 Act.

2 (q) Information prohibited from being disclosed by the
3 Personnel Record ~~Records~~ Review Act.

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

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

8 (t) All identified or deidentified health information
9 in the form of health data or medical records contained in,
10 stored in, submitted to, transferred by, or released from
11 the Illinois Health Information Exchange, and identified
12 or deidentified health information in the form of health
13 data and medical records of the Illinois Health Information
14 Exchange in the possession of the Illinois Health
15 Information Exchange Authority due to its administration
16 of the Illinois Health Information Exchange. The terms
17 "identified" and "deidentified" shall be given the same
18 meaning as in the Health Insurance Portability and
19 Accountability Act of 1996, Public Law 104-191, or any
20 subsequent amendments thereto, and any regulations
21 promulgated thereunder.

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

25 (v) Names and information of people who have applied
26 for or received Firearm Owner's Identification Cards under

1 the Firearm Owners Identification Card Act or applied for
2 or received a concealed carry license under the Firearm
3 Concealed Carry Act, unless otherwise authorized by the
4 Firearm Concealed Carry Act; and databases under the
5 Firearm Concealed Carry Act, records of the Concealed Carry
6 Licensing Review Board under the Firearm Concealed Carry
7 Act, and law enforcement agency objections under the
8 Firearm Concealed Carry Act.

9 (w) Personally identifiable information which is
10 exempted from disclosure under subsection (g) of Section
11 19.1 of the Toll Highway Act.

12 (x) Information which is exempted from disclosure
13 under Section 5-1014.3 of the Counties Code or Section
14 8-11-21 of the Illinois Municipal Code.

15 (y) Confidential information under the Adult
16 Protective Services Act and its predecessor enabling
17 statute, the Elder Abuse and Neglect Act, including
18 information about the identity and administrative finding
19 against any caregiver of a verified and substantiated
20 decision of abuse, neglect, or financial exploitation of an
21 eligible adult maintained in the Registry established
22 under Section 7.5 of the Adult Protective Services Act.

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

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

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

5 (cc) Recordings made under the Law Enforcement
6 Officer-Worn Body Camera Act, except to the extent
7 authorized under that Act.

8 (dd) Information that is prohibited from being
9 disclosed under Section 45 of the Condominium and Common
10 Interest Community Ombudsperson Act.

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

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

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

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

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

23 (jj) Information and reports that are required to be
24 submitted to the Department of Labor by registering day and
25 temporary labor service agencies but are exempt from
26 disclosure under subsection (a-1) of Section 45 of the Day

1 and Temporary Labor Services Act.

2 (kk) Information prohibited from disclosure under the
3 Seizure and Forfeiture Reporting Act.

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

7 (mm) ~~(ll)~~ Records that are exempt from disclosure under
8 Section 4.2 of the Crime Victims Compensation Act.

9 (nn) ~~(ll)~~ Information that is exempt from disclosure
10 under Section 70 of the Higher Education Student Assistance
11 Act.

12 (Source: P.A. 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352,
13 eff. 1-1-16; 99-642, eff. 7-28-16; 99-776, eff. 8-12-16;
14 99-863, eff. 8-19-16; 100-20, eff. 7-1-17; 100-22, eff. 1-1-18;
15 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff.
16 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517,
17 eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19;
18 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; revised
19 10-12-18.)

20 Section 95. The State Finance Act is amended by changing
21 Section 5.790 as follows:

22 (30 ILCS 105/5.790)

23 Sec. 5.790. The Capital Litigation Trust and Death Penalty
24 Abolition Fund.

1 (Source: P.A. 96-1543, eff. 7-1-11; 97-813, eff. 7-13-12.)

2 (30 ILCS 105/5.518 rep.)

3 Section 100. The State Finance Act is amended by repealing
4 Section 5.518.

5 Section 105. The Counties Code is amended by changing
6 Sections 3-4006.1 and 3-9005 as follows:

7 (55 ILCS 5/3-4006.1)

8 Sec. 3-4006.1. Powers and Duties of the Cook County Public
9 Defender. For each State fiscal year, the Cook County Public
10 Defender shall appear before the General Assembly and request
11 appropriations to be made from the Capital Litigation Trust and
12 Death Penalty Abolition Fund to the State Treasurer for the
13 purpose of providing trial defense assistance in capital cases.
14 The Public Defender may appear before the General Assembly at
15 other times during the State's fiscal year to request
16 supplemental appropriations be made from the Trust Fund to the
17 State Treasurer.

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

19 (55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)

20 Sec. 3-9005. Powers and duties of State's attorney.

21 (a) The duty of each State's attorney shall be:

22 (1) To commence and prosecute all actions, suits,

1 indictments and prosecutions, civil and criminal, in the
2 circuit court for his county, in which the people of the
3 State or county may be concerned.

4 (2) To prosecute all forfeited bonds and
5 recognizances, and all actions and proceedings for the
6 recovery of debts, revenues, moneys, fines, penalties and
7 forfeitures accruing to the State or his county, or to any
8 school district or road district in his county; also, to
9 prosecute all suits in his county against railroad or
10 transportation companies, which may be prosecuted in the
11 name of the People of the State of Illinois.

12 (3) To commence and prosecute all actions and
13 proceedings brought by any county officer in his official
14 capacity.

15 (4) To defend all actions and proceedings brought
16 against his county, or against any county or State officer,
17 in his official capacity, within his county.

18 (5) To attend the examination of all persons brought
19 before any judge on habeas corpus, when the prosecution is
20 in his county.

21 (6) To attend before judges and prosecute charges of
22 felony or misdemeanor, for which the offender is required
23 to be recognized to appear before the circuit court, when
24 in his power so to do.

25 (7) To give his opinion, without fee or reward, to any
26 county officer in his county, upon any question or law

1 relating to any criminal or other matter, in which the
2 people or the county may be concerned.

3 (8) To assist the attorney general whenever it may be
4 necessary, and in cases of appeal from his county to the
5 Supreme Court, to which it is the duty of the attorney
6 general to attend, he shall furnish the attorney general at
7 least 10 days before such is due to be filed, a manuscript
8 of a proposed statement, brief and argument to be printed
9 and filed on behalf of the people, prepared in accordance
10 with the rules of the Supreme Court. However, if such
11 brief, argument or other document is due to be filed by law
12 or order of court within this 10-day period, then the
13 State's attorney shall furnish such as soon as may be
14 reasonable.

15 (9) To pay all moneys received by him in trust, without
16 delay, to the officer who by law is entitled to the custody
17 thereof.

18 (10) To notify, by first class mail, complaining
19 witnesses of the ultimate disposition of the cases arising
20 from an indictment or an information.

21 (11) To perform such other and further duties as may,
22 from time to time, be enjoined on him by law.

23 (12) To appear in all proceedings by collectors of
24 taxes against delinquent taxpayers for judgments to sell
25 real estate, and see that all the necessary preliminary
26 steps have been legally taken to make the judgment legal

1 and binding.

2 (13) To notify, by first-class mail, the State
3 Superintendent of Education, the applicable regional
4 superintendent of schools, and the superintendent of the
5 employing school district or the chief school
6 administrator of the employing nonpublic school, if any,
7 upon the conviction of any individual known to possess a
8 certificate or license issued pursuant to Article 21 or
9 21B, respectively, of the School Code of any offense set
10 forth in Section 21B-80 of the School Code or any other
11 felony conviction, providing the name of the certificate
12 holder, the fact of the conviction, and the name and
13 location of the court where the conviction occurred. The
14 certificate holder must also be contemporaneously sent a
15 copy of the notice.

16 (b) The State's Attorney of each county shall have
17 authority to appoint one or more special investigators to serve
18 subpoenas and summonses, make return of process, and conduct
19 investigations which assist the State's Attorney in the
20 performance of his duties. In counties of the first and second
21 class, the fees for service of subpoenas and summonses are
22 allowed by this Section and shall be consistent with those set
23 forth in Section 4-5001 of this Act, except when increased by
24 county ordinance as provided for in Section 4-5001. In counties
25 of the third class, the fees for service of subpoenas and
26 summonses are allowed by this Section and shall be consistent

1 with those set forth in Section 4-12001 of this Act. A special
2 investigator shall not carry firearms except with permission of
3 the State's Attorney and only while carrying appropriate
4 identification indicating his employment and in the
5 performance of his assigned duties.

6 Subject to the qualifications set forth in this subsection,
7 special investigators shall be peace officers and shall have
8 all the powers possessed by investigators under the State's
9 Attorneys Appellate Prosecutor's Act.

10 No special investigator employed by the State's Attorney
11 shall have peace officer status or exercise police powers
12 unless he or she successfully completes the basic police
13 training course mandated and approved by the Illinois Law
14 Enforcement Training Standards Board or such board waives the
15 training requirement by reason of the special investigator's
16 prior law enforcement experience or training or both. Any
17 State's Attorney appointing a special investigator shall
18 consult with all affected local police agencies, to the extent
19 consistent with the public interest, if the special
20 investigator is assigned to areas within that agency's
21 jurisdiction.

22 Before a person is appointed as a special investigator, his
23 fingerprints shall be taken and transmitted to the Department
24 of State Police. The Department shall examine its records and
25 submit to the State's Attorney of the county in which the
26 investigator seeks appointment any conviction information

1 concerning the person on file with the Department. No person
2 shall be appointed as a special investigator if he has been
3 convicted of a felony or other offense involving moral
4 turpitude. A special investigator shall be paid a salary and be
5 reimbursed for actual expenses incurred in performing his
6 assigned duties. The county board shall approve the salary and
7 actual expenses and appropriate the salary and expenses in the
8 manner prescribed by law or ordinance.

9 (c) The State's Attorney may request and receive from
10 employers, labor unions, telephone companies, and utility
11 companies location information concerning putative fathers and
12 noncustodial parents for the purpose of establishing a child's
13 paternity or establishing, enforcing, or modifying a child
14 support obligation. In this subsection, "location information"
15 means information about (i) the physical whereabouts of a
16 putative father or noncustodial parent, (ii) the putative
17 father or noncustodial parent's employer, or (iii) the salary,
18 wages, and other compensation paid and the health insurance
19 coverage provided to the putative father or noncustodial parent
20 by the employer of the putative father or noncustodial parent
21 or by a labor union of which the putative father or
22 noncustodial parent is a member.

23 (d) For each State fiscal year, the State's Attorney of
24 Cook County shall appear before the General Assembly and
25 request appropriations to be made from the Capital Litigation
26 Trust and Death Penalty Abolition Fund to the State Treasurer

1 for the purpose of providing assistance in the prosecution of
2 capital cases in Cook County and for the purpose of providing
3 assistance to the State in post-conviction proceedings in
4 capital cases under Article 122 of the Code of Criminal
5 Procedure of 1963 and in relation to petitions filed under
6 Section 2-1401 of the Code of Civil Procedure in relation to
7 capital cases. The State's Attorney may appear before the
8 General Assembly at other times during the State's fiscal year
9 to request supplemental appropriations from the Trust Fund to
10 the State Treasurer.

11 (e) The State's Attorney shall have the authority to enter
12 into a written agreement with the Department of Revenue for
13 pursuit of civil liability under subsection (E) of Section 17-1
14 of the Criminal Code of 2012 against persons who have issued to
15 the Department checks or other orders in violation of the
16 provisions of paragraph (1) of subsection (B) of Section 17-1
17 of the Criminal Code of 2012, with the Department to retain the
18 amount owing upon the dishonored check or order along with the
19 dishonored check fee imposed under the Uniform Penalty and
20 Interest Act, with the balance of damages, fees, and costs
21 collected under subsection (E) of Section 17-1 of the Criminal
22 Code of 2012 or under Section 17-1a of that Code to be retained
23 by the State's Attorney. The agreement shall not affect the
24 allocation of fines and costs imposed in any criminal
25 prosecution.

26 (Source: P.A. 99-169, eff. 7-28-15; 99-642, eff. 7-28-16.)

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

3 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

4 Sec. 9-1. First degree murder; death penalties;
5 exceptions; separate hearings; proof; findings; appellate
6 procedures; reversals.

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

10 (1) he either intends to kill or do great bodily harm
11 to that individual or another, or knows that such acts will
12 cause death to that individual or another; or

13 (2) he knows that such acts create a strong probability
14 of death or great bodily harm to that individual or
15 another; or

16 (3) he is attempting or committing a forcible felony
17 other than second degree murder.

18 (a-5) Aggravating factors; death. A defendant who at the
19 time of the commission of the offense has attained the age of
20 18 or more and who has been found guilty of first degree murder
21 may be sentenced to death if:

22 (1) the defendant has been convicted of murdering 2 or
23 more individuals by use of a firearm under subsection (a)
24 of this Section and the deaths occurred as the result of

1 the same act; or

2 (2) the defendant has been convicted of murdering an
3 individual by use of a firearm under subsection (a) of this
4 Section and one or more other individuals suffered bodily
5 injury during the commission of the murder.

6 (b) Aggravating factors; natural life imprisonment
7 ~~Factors~~. A defendant who at the time of the commission of the
8 offense has attained the age of 18 or more and who has been
9 found guilty of first degree murder may be sentenced to natural
10 life imprisonment ~~death~~ if:

11 (1) the murdered individual was a peace officer or
12 fireman killed in the course of performing his official
13 duties, to prevent the performance of his official duties,
14 or in retaliation for performing his official duties, and
15 the defendant knew or should have known that the murdered
16 individual was a peace officer or fireman; or

17 (2) the murdered individual was an employee of an
18 institution or facility of the Department of Corrections,
19 or any similar local correctional agency, killed in the
20 course of performing his official duties, to prevent the
21 performance of his official duties, or in retaliation for
22 performing his official duties, or the murdered individual
23 was an inmate at such institution or facility and was
24 killed on the grounds thereof, or the murdered individual
25 was otherwise present in such institution or facility with
26 the knowledge and approval of the chief administrative

1 officer thereof; or

2 (3) the defendant has been convicted of murdering two
3 or more individuals under subsection (a) of this Section or
4 under any law of the United States or of any state which is
5 substantially similar to subsection (a) of this Section
6 regardless of whether the deaths occurred as the result of
7 the same act or of several related or unrelated acts so
8 long as the deaths were the result of either an intent to
9 kill more than one person or of separate acts which the
10 defendant knew would cause death or create a strong
11 probability of death or great bodily harm to the murdered
12 individual or another; or

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

16 (5) the defendant committed the murder pursuant to a
17 contract, agreement or understanding by which he was to
18 receive money or anything of value in return for committing
19 the murder or procured another to commit the murder for
20 money or anything of value; or

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

23 (a) the murdered individual:

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

25 (ii) received physical injuries personally
26 inflicted by the defendant substantially

1 contemporaneously with physical injuries caused by
2 one or more persons for whose conduct the defendant
3 is legally accountable under Section 5-2 of this
4 Code, and the physical injuries inflicted by
5 either the defendant or the other person or persons
6 for whose conduct he is legally accountable caused
7 the death of the murdered individual; and

8 (b) in performing the acts which caused the death
9 of the murdered individual or which resulted in
10 physical injuries personally inflicted by the
11 defendant on the murdered individual under the
12 circumstances of subdivision (ii) of subparagraph (a)
13 of paragraph (6) of subsection (b) of this Section, the
14 defendant acted with the intent to kill the murdered
15 individual or with the knowledge that his acts created
16 a strong probability of death or great bodily harm to
17 the murdered individual or another; and

18 (c) the other felony was an inherently violent
19 crime or the attempt to commit an inherently violent
20 crime. In this subparagraph (c), "inherently violent
21 crime" includes, but is not limited to, armed robbery,
22 robbery, predatory criminal sexual assault of a child,
23 aggravated criminal sexual assault, aggravated
24 kidnapping, aggravated vehicular hijacking, aggravated
25 arson, aggravated stalking, residential burglary, and
26 home invasion; or

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

4 (8) the defendant committed the murder with intent to
5 prevent the murdered individual from testifying or
6 participating in any criminal investigation or prosecution
7 or giving material assistance to the State in any
8 investigation or prosecution, either against the defendant
9 or another; or the defendant committed the murder because
10 the murdered individual was a witness in any prosecution or
11 gave material assistance to the State in any investigation
12 or prosecution, either against the defendant or another;
13 for purposes of this paragraph (8), "participating in any
14 criminal investigation or prosecution" is intended to
15 include those appearing in the proceedings in any capacity
16 such as trial judges, prosecutors, defense attorneys,
17 investigators, witnesses, or jurors; or

18 (9) the defendant, while committing an offense
19 punishable under Sections 401, 401.1, 401.2, 405, 405.2,
20 407 or 407.1 or subsection (b) of Section 404 of the
21 Illinois Controlled Substances Act, or while engaged in a
22 conspiracy or solicitation to commit such offense,
23 intentionally killed an individual or counseled,
24 commanded, induced, procured or caused the intentional
25 killing of the murdered individual; or

26 (10) the defendant was incarcerated in an institution

1 or facility of the Department of Corrections at the time of
2 the murder, and while committing an offense punishable as a
3 felony under Illinois law, or while engaged in a conspiracy
4 or solicitation to commit such offense, intentionally
5 killed an individual or counseled, commanded, induced,
6 procured or caused the intentional killing of the murdered
7 individual; or

8 (11) the murder was committed in a cold, calculated and
9 premeditated manner pursuant to a preconceived plan,
10 scheme or design to take a human life by unlawful means,
11 and the conduct of the defendant created a reasonable
12 expectation that the death of a human being would result
13 therefrom; or

14 (12) the murdered individual was an emergency medical
15 technician - ambulance, emergency medical technician -
16 intermediate, emergency medical technician - paramedic,
17 ambulance driver, or other medical assistance or first aid
18 personnel, employed by a municipality or other
19 governmental unit, killed in the course of performing his
20 official duties, to prevent the performance of his official
21 duties, or in retaliation for performing his official
22 duties, and the defendant knew or should have known that
23 the murdered individual was an emergency medical
24 technician - ambulance, emergency medical technician -
25 intermediate, emergency medical technician - paramedic,
26 ambulance driver, or other medical assistance or first aid

1 personnel; or

2 (13) the defendant was a principal administrator,
3 organizer, or leader of a calculated criminal drug
4 conspiracy consisting of a hierarchical position of
5 authority superior to that of all other members of the
6 conspiracy, and the defendant counseled, commanded,
7 induced, procured, or caused the intentional killing of the
8 murdered person; or

9 (14) the murder was intentional and involved the
10 infliction of torture. For the purpose of this Section
11 torture means the infliction of or subjection to extreme
12 physical pain, motivated by an intent to increase or
13 prolong the pain, suffering or agony of the victim; or

14 (15) the murder was committed as a result of the
15 intentional discharge of a firearm by the defendant from a
16 motor vehicle and the victim was not present within the
17 motor vehicle; or

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

21 (17) the murdered individual was a person with a
22 disability and the defendant knew or should have known that
23 the murdered individual was a person with a disability. For
24 purposes of this paragraph (17), "person with a disability"
25 means a person who suffers from a permanent physical or
26 mental impairment resulting from disease, an injury, a

1 functional disorder, or a congenital condition that
2 renders the person incapable of adequately providing for
3 his or her own health or personal care; or

4 (18) the murder was committed by reason of any person's
5 activity as a community policing volunteer or to prevent
6 any person from engaging in activity as a community
7 policing volunteer; or

8 (19) the murdered individual was subject to an order of
9 protection and the murder was committed by a person against
10 whom the same order of protection was issued under the
11 Illinois Domestic Violence Act of 1986; or

12 (20) the murdered individual was known by the defendant
13 to be a teacher or other person employed in any school and
14 the teacher or other employee is upon the grounds of a
15 school or grounds adjacent to a school, or is in any part
16 of a building used for school purposes; or

17 (21) the murder was committed by the defendant in
18 connection with or as a result of the offense of terrorism
19 as defined in Section 29D-14.9 of this Code.

20 (b-5) Aggravating factors; natural life imprisonment;
21 physician, physician assistant, psychologist, nurse, or
22 advanced practice registered nurse ~~Factor; Natural Life~~
23 ~~Imprisonment~~. A defendant who has been found guilty of first
24 degree murder and who at the time of the commission of the
25 offense had attained the age of 18 years or more may be
26 sentenced to natural life imprisonment if (i) the murdered

1 individual was a physician, physician assistant, psychologist,
2 nurse, or advanced practice registered nurse, (ii) the
3 defendant knew or should have known that the murdered
4 individual was a physician, physician assistant, psychologist,
5 nurse, or advanced practice registered nurse, and (iii) the
6 murdered individual was killed in the course of acting in his
7 or her capacity as a physician, physician assistant,
8 psychologist, nurse, or advanced practice registered nurse, or
9 to prevent him or her from acting in that capacity, or in
10 retaliation for his or her acting in that capacity.

11 (c) Consideration of factors in Aggravation and
12 Mitigation.

13 The court shall consider, or shall instruct the jury to
14 consider any aggravating and any mitigating factors which are
15 relevant to the imposition of the death penalty. Aggravating
16 factors may include but need not be limited to those factors
17 set forth in subsection (a-5) ~~(b)~~. Mitigating factors may
18 include but need not be limited to the following:

19 (1) the defendant has no significant history of prior
20 criminal activity;

21 (2) the murder was committed while the defendant was
22 under the influence of extreme mental or emotional
23 disturbance, although not such as to constitute a defense
24 to prosecution;

25 (3) the murdered individual was a participant in the
26 defendant's homicidal conduct or consented to the

1 homicidal act;

2 (4) the defendant acted under the compulsion of threat
3 or menace of the imminent infliction of death or great
4 bodily harm;

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

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

9 (7) the defendant suffers from a reduced mental
10 capacity.

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

16 (d) Separate sentencing hearing.

17 Where requested by the State, the court shall conduct a
18 separate sentencing proceeding to determine the existence of
19 factors set forth in subsection (a-5) ~~(b)~~ and to consider any
20 aggravating or mitigating factors as indicated in subsection
21 (c). The proceeding shall be conducted:

22 (1) before the jury that determined the defendant's
23 guilt; or

24 (2) before a jury impanelled for the purpose of the
25 proceeding if:

26 A. the defendant was convicted upon a plea of

1 guilty; or

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

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

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

8 (e) Evidence and Argument.

9 During the proceeding any information relevant to any of
10 the factors set forth in subsection (a-5) ~~(b)~~ may be presented
11 by either the State or the defendant under the rules governing
12 the admission of evidence at criminal trials. Any information
13 relevant to any additional aggravating factors or any
14 mitigating factors indicated in subsection (c) may be presented
15 by the State or defendant regardless of its admissibility under
16 the rules governing the admission of evidence at criminal
17 trials. The State and the defendant shall be given fair
18 opportunity to rebut any information received at the hearing.

19 (f) Proof.

20 The burden of proof of establishing the existence of any of
21 the factors set forth in subsection (b) is on the State and
22 shall not be satisfied unless established beyond a reasonable
23 doubt.

24 (g) Procedure - Jury.

25 If at the separate sentencing proceeding the jury finds
26 that none of the factors set forth in subsection (a-5) ~~(b)~~

1 exists, the court shall sentence the defendant to a term of
2 imprisonment under Chapter V of the Unified Code of
3 Corrections. If there is a unanimous finding by the jury that
4 one or more of the factors set forth in subsection (a-5) ~~(b)~~
5 exist, the jury shall consider aggravating and mitigating
6 factors as instructed by the court and shall determine whether
7 the sentence of death shall be imposed. If the jury determines
8 unanimously, after weighing the factors in aggravation and
9 mitigation, that death is the appropriate sentence, the court
10 shall sentence the defendant to death. If the court does not
11 concur with the jury determination that death is the
12 appropriate sentence, the court shall set forth reasons in
13 writing including what facts or circumstances the court relied
14 upon, along with any relevant documents, that compelled the
15 court to non-concur with the sentence. This document and any
16 attachments shall be part of the record for appellate review.
17 The court shall be bound by the jury's sentencing
18 determination.

19 If after weighing the factors in aggravation and
20 mitigation, one or more jurors determines that death is not the
21 appropriate sentence, the court shall sentence the defendant to
22 a term of imprisonment under Chapter V of the Unified Code of
23 Corrections.

24 (h) Procedure - No Jury.

25 In a proceeding before the court alone, if the court finds
26 that none of the factors found in subsection (a-5) ~~(b)~~ exists,

1 the court shall sentence the defendant to a term of
2 imprisonment under Chapter V of the Unified Code of
3 Corrections.

4 If the Court determines that one or more of the factors set
5 forth in subsection (a-5) ~~(b)~~ exists, the Court shall consider
6 any aggravating and mitigating factors as indicated in
7 subsection (c). If the Court determines, after weighing the
8 factors in aggravation and mitigation, that death is the
9 appropriate sentence, the Court shall sentence the defendant to
10 death.

11 If the court finds that death is not the appropriate
12 sentence, the court shall sentence the defendant to a term of
13 imprisonment under Chapter V of the Unified Code of
14 Corrections.

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

16 In a case in which the defendant has been found guilty of
17 first degree murder by a judge or jury, or a case on remand for
18 resentencing, and the State seeks the death penalty as an
19 appropriate sentence, on the court's own motion or the written
20 motion of the defendant, the court may decertify the case as a
21 death penalty case if the court finds that the only evidence
22 supporting the defendant's conviction is the uncorroborated
23 testimony of an informant witness, as defined in Section 115-21
24 of the Code of Criminal Procedure of 1963, concerning the
25 confession or admission of the defendant or that the sole
26 evidence against the defendant is a single eyewitness or single

1 accomplice without any other corroborating evidence. If the
2 court decertifies the case as a capital case under either of
3 the grounds set forth above, the court shall issue a written
4 finding. The State may pursue its right to appeal the
5 decertification pursuant to Supreme Court Rule 604(a)(1). If
6 the court does not decertify the case as a capital case, the
7 matter shall proceed to the eligibility phase of the sentencing
8 hearing.

9 (i) Appellate Procedure.

10 The conviction and sentence of death shall be subject to
11 automatic review by the Supreme Court. Such review shall be in
12 accordance with rules promulgated by the Supreme Court. The
13 Illinois Supreme Court may overturn the death sentence, and
14 order the imposition of imprisonment under Chapter V of the
15 Unified Code of Corrections if the court finds that the death
16 sentence is fundamentally unjust as applied to the particular
17 case. If the Illinois Supreme Court finds that the death
18 sentence is fundamentally unjust as applied to the particular
19 case, independent of any procedural grounds for relief, the
20 Illinois Supreme Court shall issue a written opinion explaining
21 this finding.

22 (j) Disposition of reversed death sentence.

23 In the event that the death penalty in this Act is held to
24 be unconstitutional by the Supreme Court of the United States
25 or of the State of Illinois, any person convicted of first
26 degree murder shall be sentenced by the court to a term of

1 imprisonment under Chapter V of the Unified Code of
2 Corrections.

3 In the event that any death sentence pursuant to the
4 sentencing provisions of this Section is declared
5 unconstitutional by the Supreme Court of the United States or
6 of the State of Illinois, the court having jurisdiction over a
7 person previously sentenced to death shall cause the defendant
8 to be brought before the court, and the court shall sentence
9 the defendant to a term of imprisonment under Chapter V of the
10 Unified Code of Corrections.

11 (k) Guidelines for seeking the death penalty.

12 The Attorney General and State's Attorneys Association
13 shall consult on voluntary guidelines for procedures governing
14 whether or not to seek the death penalty. The guidelines do not
15 have the force of law and are only advisory in nature.

16 (Source: P.A. 99-143, eff. 7-27-15; 100-460, eff. 1-1-18;
17 100-513, eff. 1-1-18; 100-863, eff. 8-14-18.)

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

20 (725 ILCS 5/113-3) (from Ch. 38, par. 113-3)

21 Sec. 113-3. (a) Every person charged with an offense shall
22 be allowed counsel before pleading to the charge. If the
23 defendant desires counsel and has been unable to obtain same
24 before arraignment the court shall recess court or continue the

1 cause for a reasonable time to permit defendant to obtain
2 counsel and consult with him before pleading to the charge. If
3 the accused is a dissolved corporation, and is not represented
4 by counsel, the court may, in the interest of justice, appoint
5 as counsel a licensed attorney of this State.

6 (b) In all cases, except where the penalty is a fine only,
7 if the court determines that the defendant is indigent and
8 desires counsel, the Public Defender shall be appointed as
9 counsel. If there is no Public Defender in the county or if the
10 defendant requests counsel other than the Public Defender and
11 the court finds that the rights of the defendant will be
12 prejudiced by the appointment of the Public Defender, the court
13 shall appoint as counsel a licensed attorney at law of this
14 State, except that in a county having a population of 2,000,000
15 or more the Public Defender shall be appointed as counsel in
16 all misdemeanor cases where the defendant is indigent and
17 desires counsel unless the case involves multiple defendants,
18 in which case the court may appoint counsel other than the
19 Public Defender for the additional defendants. The court shall
20 require an affidavit signed by any defendant who requests
21 court-appointed counsel. Such affidavit shall be in the form
22 established by the Supreme Court containing sufficient
23 information to ascertain the assets and liabilities of that
24 defendant. The Court may direct the Clerk of the Circuit Court
25 to assist the defendant in the completion of the affidavit. Any
26 person who knowingly files such affidavit containing false

1 information concerning his assets and liabilities shall be
2 liable to the county where the case, in which such false
3 affidavit is filed, is pending for the reasonable value of the
4 services rendered by the public defender or other
5 court-appointed counsel in the case to the extent that such
6 services were unjustly or falsely procured.

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

1 provide fair compensation for protracted representation. A
2 trial court may entertain the filing of this verified statement
3 before the termination of the cause, and may order the
4 provisional payment of sums during the pendency of the cause.

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

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

19 (f) The provisions of this Section relating to appointment
20 of counsel, compensation of counsel, and payment of expenses in
21 capital cases apply except when the compensation and expenses
22 are being provided under the Capital Crimes Litigation Act of
23 2019.

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

1 Sec. 119-1. Death penalty abolished.

2 (a) Beginning on the effective date of this amendatory Act
3 of the 96th General Assembly, notwithstanding any other law to
4 the contrary, the death penalty is abolished and a sentence to
5 death may not be imposed.

6 (a-5) Notwithstanding subsection (a), beginning on the
7 effective date of this amendatory Act of the 101st General
8 Assembly, the death penalty may be imposed as provided in
9 subsection (a-5) of Section 9-1 of the Criminal Code of 2012.

10 (b) All unobligated and unexpended moneys remaining in the
11 Capital Litigation Trust Fund on the effective date of this
12 amendatory Act of the 96th General Assembly shall be
13 transferred into the Capital Litigation Trust and Death Penalty
14 Abolition Fund, a special fund in the State treasury, to be
15 expended by the Illinois Criminal Justice Information
16 Authority, for services for families of victims of homicide or
17 murder and for training of law enforcement personnel and for
18 expenses authorized by the Capital Crimes Litigation Act of
19 2019.

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

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

23 (725 ILCS 105/10) (from Ch. 38, par. 208-10)

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

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

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

7 (c) The State Appellate Defender may:

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

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

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

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

24 (5) (blank);

25 (5.1) in cases in which a death sentence is an
26 authorized disposition, provide trial counsel with legal

1 assistance and the assistance of expert witnesses,
2 investigators, and mitigation specialists from funds
3 appropriated to the State Appellate Defender specifically
4 for that purpose by the General Assembly. The Office of the
5 State Appellate Defender shall not be appointed to serve as
6 trial counsel in capital cases;

7 (5.5) provide training to county public defenders;

8 (5.7) provide county public defenders with the
9 assistance of expert witnesses and investigators from
10 funds appropriated to the State Appellate Defender
11 specifically for that purpose by the General Assembly. The
12 Office of the State Appellate Defender shall not be
13 appointed to act as trial counsel;

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

1 law schools, the Midwest Juvenile Defender Center, and pro
2 bono efforts by law firms; and (iv) make an annual report
3 to the General Assembly.

4 (d) (Blank).

5 (e) The requirement for reporting to the General Assembly
6 shall be satisfied by filing copies of the report as required
7 by Section 3.1 of the General Assembly Organization Act and
8 filing such additional copies with the State Government Report
9 Distribution Center for the General Assembly as is required
10 under paragraph (t) of Section 7 of the State Library Act.

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