



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2955

Introduced 2/16/2023, by Rep. Dan Caulkins

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 140/7.5

30 ILCS 105/5.990 new

720 ILCS 5/9-1

from Ch. 38, par. 9-1

725 ILCS 5/113-3

from Ch. 38, par. 113-3

725 ILCS 5/119-1

725 ILCS 105/10

from Ch. 38, par. 208-10

Amends the Code of Criminal Procedure of 1963. Restores the death penalty for the first degree murder of a peace officer killed while performing his or her official duties. Enacts the Capital Crimes Litigation Act of 2023. Provides specified funding and resources for cases in which a sentence of death is an authorized disposition. Creates the Capital Litigation Trust Fund. Provides that all unobligated and unexpended moneys in the Death Penalty Abolition Fund are transferred into the Capital Litigation Trust Fund. Amends the State Appellate Defender Act. Provides that in cases in which a sentence of death is an authorized disposition, the State Appellate Defender shall provide trial counsel with legal assistance and the assistance of expert witnesses, investigators, and mitigation specialists from funds appropriated to the State Appellate Defender specifically for that purpose by the General Assembly. Provides that the Office of State Appellate Defender shall not be appointed to serve as trial counsel in capital cases. Amends the Freedom of Information Act, the State Finance Act, and the Criminal Code of 2012 to make conforming changes.

LRB103 25549 RLC 51898 b

1 AN ACT concerning criminal law.

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

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

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

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

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

10 (a-5) Litigation budget.

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

1 reviewed by both the trial judge and the presiding judge
2 or the presiding judge's designee.

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

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

16 (A) the hourly rate at which counsel will be
17 compensated;

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

22 (C) the best preliminary estimate that can be made
23 of the cost of all services, including, but not
24 limited to, counsel, expert, and investigative
25 services, that are likely to be needed through the
26 guilt and penalty phases of the trial. The court shall

1 have discretion to require that budgets be prepared
2 for shorter intervals of time.

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

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

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

21 (c) Appointed trial counsel may also petition the court
22 for certification of expenses for reasonable and necessary
23 capital litigation expenses including, but not limited to,
24 investigatory and other assistance, expert, forensic, and
25 other witnesses, and mitigation specialists. Each provider of
26 proposed services must specify the best preliminary estimate

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

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

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

1 without further hearing, the court must promptly rule on the
2 objections. The petitions and orders shall be kept under seal
3 and shall be exempt from Freedom of Information requests until
4 the conclusion of the trial and appeal of the case, even if the
5 prosecution chooses not to pursue the death penalty prior to
6 trial or sentencing. Certification of compensation and
7 expenses by a court in Cook County shall be delivered by the
8 court to the county treasurer and paid by the county treasurer
9 from moneys granted to the county from the Capital Litigation
10 Trust Fund.

11 Section 15. Capital Litigation Trust Fund.

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

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

22 (c) Moneys deposited into the Trust Fund shall be used
23 exclusively for the purposes of providing funding for the
24 prosecution and defense of capital cases and for providing
25 funding for post-conviction proceedings in capital cases under

1 Article 122 of the Code of Criminal Procedure of 1963 and in
2 relation to petitions filed under Section 2-1401 of the Code
3 of Civil Procedure in relation to capital cases as provided in
4 this Act and shall not be appropriated, loaned, or in any
5 manner transferred to the General Revenue Fund of the State of
6 Illinois.

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

24 (1) The Public Defender in Cook County shall request
25 appropriations to the State Treasurer for expenses
26 incurred by the Public Defender and for funding for

1 private appointed defense counsel in Cook County.

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

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

20 (4) The Office of the State's Attorneys Appellate
21 Prosecutor shall request a direct appropriation from the
22 Trust Fund to pay expenses incurred by the Office of the
23 State's Attorneys Appellate Prosecutor and an
24 appropriation to the State Treasurer for payments from the
25 Trust Fund for expenses incurred by State's Attorneys in
26 counties other than Cook County.

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

19 (e) Moneys in the Trust Fund shall be expended only as
20 follows:

21 (1) To pay the State Treasurer's costs to administer
22 the Trust Fund. The amount for this purpose may not exceed
23 5% in any one fiscal year of the amount otherwise
24 appropriated from the Trust Fund in the same fiscal year.

25 (2) To pay the capital litigation expenses of trial
26 defense and post-conviction proceedings in capital cases

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

21 (3) To pay the compensation of trial attorneys, other
22 than public defenders or appellate defenders, who have
23 been appointed by the court to represent defendants who
24 are charged with capital crimes or attorneys approved by
25 or contracted with the State Appellate Defender to
26 represent petitioners in post-conviction proceedings in

1 capital cases under Article 122 of the Code of Criminal
2 Procedure of 1963 and in relation to petitions filed under
3 Section 2-1401 of the Code of Civil Procedure in relation
4 to capital cases.

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

1 created by the State Treasurer. Upon certification of the
2 expenses and delivery of the certification to the State
3 Treasurer, the Treasurer shall pay the expenses directly
4 from the Capital Litigation Trust Fund if there are
5 sufficient moneys in the Trust Fund to pay the expenses.

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

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

20 (7) To provide financial support to the State
21 Appellate Defender under the State Appellate Defender Act.
22 Moneys expended from the Trust Fund shall be in addition
23 to county funding for Public Defenders and State's
24 Attorneys, and shall not be used to supplant or reduce
25 ordinary and customary county funding.

26 (f) Moneys in the Trust Fund shall be appropriated to the

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

1 Defender to represent petitioners in post-conviction
2 proceedings in capital cases under Article 122 of the Code of
3 Criminal Procedure of 1963 and in relation to petitions filed
4 under Section 2-1401 of the Code of Civil Procedure in
5 relation to capital cases in counties other than Cook County,
6 and (iv) to pay the costs of administering the Trust Fund. All
7 expenditures and grants made from the Trust Fund shall be
8 subject to audit by the Auditor General.

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

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

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

25 (3) The State Treasurer shall make the grants to the
26 Cook County Treasurer as soon as possible after the

1 beginning of the State fiscal year.

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

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

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

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

19 (h) If a defendant in a capital case in Cook County is
20 represented by court appointed counsel other than the Cook
21 County Public Defender, the appointed counsel shall petition
22 the court for an order directing the Cook County Treasurer to
23 pay the court appointed counsel's reasonable and necessary
24 compensation and capital litigation expenses from grant moneys
25 provided from the Trust Fund. The petitions shall be supported
26 by itemized bills showing the date, the amount of time spent,

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

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

24 (1) Upon certification by the circuit court, on a form
25 created by the State Treasurer, that all or a portion of
26 the expenses are reasonable, necessary, and appropriate

1 for payment from the Trust Fund and the court's delivery
2 of the certification to the Treasurer, the Treasurer shall
3 pay the certified expenses of Public Defenders and the
4 State Appellate Defender from the money appropriated to
5 the Treasurer for capital litigation expenses of Public
6 Defenders and post-conviction proceeding expenses in
7 capital cases of the State Appellate Defender and expenses
8 in relation to petitions filed under Section 2-1401 of the
9 Code of Civil Procedure in relation to capital cases in
10 any county other than Cook County, if there are sufficient
11 moneys in the Trust Fund to pay the expenses.

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

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

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

21 (j) If the Trust Fund is discontinued or dissolved by an
22 Act of the General Assembly or by operation of law, any balance
23 remaining in the Trust Fund shall be returned to the General
24 Revenue Fund after deduction of administrative costs, any
25 other provision of this Act to the contrary notwithstanding.

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

3 (5 ILCS 140/7.5)

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

7 (a) All information determined to be confidential
8 under Section 4002 of the Technology Advancement and
9 Development Act.

10 (b) Library circulation and order records identifying
11 library users with specific materials under the Library
12 Records Confidentiality Act.

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

19 (d) Information and records held by the Department of
20 Public Health and its authorized representatives relating
21 to known or suspected cases of sexually transmissible
22 disease or any information the disclosure of which is
23 restricted under the Illinois Sexually Transmissible
24 Disease Control Act.

25 (e) Information the disclosure of which is exempted

1 under Section 30 of the Radon Industry Licensing Act.

2 (f) Firm performance evaluations under Section 55 of
3 the Architectural, Engineering, and Land Surveying
4 Qualifications Based Selection Act.

5 (g) Information the disclosure of which is restricted
6 and exempted under Section 50 of the Illinois Prepaid
7 Tuition Act.

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

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

18 (j) Information and data concerning the distribution
19 of surcharge moneys collected and remitted by carriers
20 under the Emergency Telephone System Act.

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

25 (l) Records and information provided to a residential
26 health care facility resident sexual assault and death

1 review team or the Executive Council under the Abuse
2 Prevention Review Team Act.

3 (m) Information provided to the predatory lending
4 database created pursuant to Article 3 of the Residential
5 Real Property Disclosure Act, except to the extent
6 authorized under that Article.

7 (n) Defense budgets and petitions for certification of
8 compensation and expenses for court appointed trial
9 counsel as provided under Sections 10 and 15 of the
10 Capital Crimes Litigation Act or the Capital Crimes
11 Litigation Act of 2023. This subsection (n) shall apply
12 until the conclusion of the trial of the case, even if the
13 prosecution chooses not to pursue the death penalty prior
14 to trial or sentencing.

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

18 (p) Security portions of system safety program plans,
19 investigation reports, surveys, schedules, lists, data, or
20 information compiled, collected, or prepared by or for the
21 Department of Transportation under Sections 2705-300 and
22 2705-616 of the Department of Transportation Law of the
23 Civil Administrative Code of Illinois, the Regional
24 Transportation Authority under Section 2.11 of the
25 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 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
10 in, stored in, submitted to, transferred by, or released
11 from the Illinois Health Information Exchange, and
12 identified or deidentified health information in the form
13 of health data and medical records of the Illinois Health
14 Information Exchange in the possession of the Illinois
15 Health Information Exchange Office due to its
16 administration of the Illinois Health Information
17 Exchange. The terms "identified" and "deidentified" shall
18 be given the same meaning as in the Health Insurance
19 Portability and Accountability Act of 1996, Public Law
20 104-191, or any subsequent amendments thereto, and any
21 regulations 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
6 Carry Licensing Review Board under the Firearm Concealed
7 Carry Act, and law enforcement agency objections under the
8 Firearm Concealed Carry Act.

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

12 (w) Personally identifiable information which is
13 exempted from disclosure under subsection (g) of Section
14 19.1 of the Toll Highway Act.

15 (x) Information which is exempted from disclosure
16 under Section 5-1014.3 of the Counties Code or Section
17 8-11-21 of the Illinois Municipal Code.

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

26 (z) Records and information provided to a fatality

1 review team or the Illinois Fatality Review Team Advisory
2 Council under Section 15 of the Adult Protective Services
3 Act.

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

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

8 (cc) Recordings made under the Law Enforcement
9 Officer-Worn Body Camera Act, except to the extent
10 authorized under that Act.

11 (dd) Information that is prohibited from being
12 disclosed under Section 45 of the Condominium and Common
13 Interest Community Ombudsperson Act.

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

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

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

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

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

26 (jj) Information and reports that are required to be

1 submitted to the Department of Labor by registering day
2 and temporary labor service agencies but are exempt from
3 disclosure under subsection (a-1) of Section 45 of the Day
4 and Temporary Labor Services Act.

5 (kk) Information prohibited from disclosure under the
6 Seizure and Forfeiture Reporting Act.

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

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

12 (nn) Information that is exempt from disclosure under
13 Section 70 of the Higher Education Student Assistance Act.

14 (oo) Communications, notes, records, and reports
15 arising out of a peer support counseling session
16 prohibited from disclosure under the First Responders
17 Suicide Prevention Act.

18 (pp) Names and all identifying information relating to
19 an employee of an emergency services provider or law
20 enforcement agency under the First Responders Suicide
21 Prevention Act.

22 (qq) Information and records held by the Department of
23 Public Health and its authorized representatives collected
24 under the Reproductive Health Act.

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

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

4 (tt) Recordings made under the Children's Advocacy
5 Center Act, except to the extent authorized under that
6 Act.

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

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

12 (wv) Information that is exempt from disclosure under
13 Section 16.8 of the State Treasurer Act.

14 (xx) Information that is exempt from disclosure or
15 information that shall not be made public under the
16 Illinois Insurance Code.

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

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

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

23 (bbb) Information that is prohibited from disclosure
24 by the Illinois Police Training Act and the Illinois State
25 Police Act.

26 (ccc) Records exempt from disclosure under Section

1 2605-304 of the Illinois State Police Law of the Civil
2 Administrative Code of Illinois.

3 (ddd) Information prohibited from being disclosed
4 under Section 35 of the Address Confidentiality for
5 Victims of Domestic Violence, Sexual Assault, Human
6 Trafficking, or Stalking Act.

7 (eee) Information prohibited from being disclosed
8 under subsection (b) of Section 75 of the Domestic
9 Violence Fatality Review Act.

10 (fff) Images from cameras under the Expressway Camera
11 Act. This subsection (fff) is inoperative on and after
12 July 1, 2023.

13 (ggg) Information prohibited from disclosure under
14 paragraph (3) of subsection (a) of Section 14 of the Nurse
15 Agency Licensing Act.

16 (hhh) Information submitted to the Department of State
17 Police in an affidavit or application for an assault
18 weapon endorsement, assault weapon attachment endorsement,
19 .50 caliber rifle endorsement, or .50 caliber cartridge
20 endorsement under the Firearm Owners Identification Card
21 Act.

22 (Source: P.A. 101-13, eff. 6-12-19; 101-27, eff. 6-25-19;
23 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff.
24 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452,
25 eff. 1-1-20; 101-466, eff. 1-1-20; 101-600, eff. 12-6-19;
26 101-620, eff. 12-20-19; 101-649, eff. 7-7-20; 101-652, eff.

1 1-1-22; 101-656, eff. 3-23-21; 102-36, eff. 6-25-21; 102-237,
2 eff. 1-1-22; 102-292, eff. 1-1-22; 102-520, eff. 8-20-21;
3 102-559, eff. 8-20-21; 102-813, eff. 5-13-22; 102-946, eff.
4 7-1-22; 102-1042, eff. 6-3-22; 102-1116, eff. 1-10-23.)

5 Section 105. The State Finance Act is amended by adding
6 Section 5.990 as follows:

7 (30 ILCS 105/5.990 new)

8 Sec. 5.990. The Capital Litigation Trust Fund.

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

11 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

12 Sec. 9-1. First degree murder; death penalties;
13 exceptions; separate hearings; proof; findings; appellate
14 procedures; reversals.

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

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

21 (2) he or she knows that such acts create a strong
22 probability of death or great bodily harm to that

1 individual or another; or

2 (3) he or she, acting alone or with one or more
3 participants, commits or attempts to commit a forcible
4 felony other than second degree murder, and in the course
5 of or in furtherance of such crime or flight therefrom, he
6 or she or another participant causes the death of a
7 person.

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

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

19 (1.5) the murdered individual was a firefighter killed
20 in the course of performing his or her official duties, to
21 prevent the performance of his or her official duties, or
22 in retaliation for performing his or her official duties,
23 and the defendant knew or should have known that the
24 murdered individual was a firefighter; or

25 (2) the murdered individual was an employee of an
26 institution or facility of the Department of Corrections,

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

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

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

24 (5) the defendant committed the murder pursuant to a
25 contract, agreement, or understanding by which he or she
26 was to receive money or anything of value in return for

1 committing the murder or procured another to commit the
2 murder for money or anything of value; or

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

5 (a) the murdered individual:

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

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

17 (b) in performing the acts which caused the death
18 of the murdered individual or which resulted in
19 physical injuries personally inflicted by the
20 defendant on the murdered individual under the
21 circumstances of subdivision (ii) of subparagraph (a)
22 of paragraph (6) of subsection (b) of this Section,
23 the defendant acted with the intent to kill the
24 murdered individual or with the knowledge that his
25 acts created a strong probability of death or great
26 bodily harm to the murdered individual or another; and

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

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

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

1 or jurors; or

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

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

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

24 (12) the murdered individual was an emergency medical
25 technician - ambulance, emergency medical technician -
26 intermediate, emergency medical technician - paramedic,

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

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

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

24 (15) the murder was committed as a result of the
25 intentional discharge of a firearm by the defendant from a
26 motor vehicle and the victim was not present within the

1 motor vehicle; or

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

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

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

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

22 (20) the murdered individual was known by the
23 defendant to be a teacher or other person employed in any
24 school and the teacher or other employee is upon the
25 grounds of a school or grounds adjacent to a school, or is
26 in any part of a building used for school purposes; or

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

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

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

23 (c) Consideration of factors in Aggravation and
24 Mitigation.

25 The court shall consider, or shall instruct the jury to
26 consider any aggravating and any mitigating factors which are

1 relevant to the imposition of the death penalty. Aggravating
2 factors may include but need not be limited to those factors
3 set forth in subsection (b). Mitigating factors may include
4 but need not be limited to the following:

5 (1) the defendant has no significant history of prior
6 criminal activity;

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

11 (3) the murdered individual was a participant in the
12 defendant's homicidal conduct or consented to the
13 homicidal act;

14 (4) the defendant acted under the compulsion of threat
15 or menace of the imminent infliction of death or great
16 bodily harm;

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

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

21 (7) the defendant suffers from a reduced mental
22 capacity.

23 Provided, however, that an action that does not otherwise
24 mitigate first degree murder cannot qualify as a mitigating
25 factor for first degree murder because of the discovery,
26 knowledge, or disclosure of the victim's sexual orientation as

1 defined in Section 1-103 of the Illinois Human Rights Act.

2 (d) Separate sentencing hearing.

3 Where requested by the State, the court shall conduct a
4 separate sentencing proceeding to determine the existence of
5 factors set forth in subsection (b) and to consider any
6 aggravating or mitigating factors as indicated in subsection
7 (c). The proceeding shall be conducted:

8 (1) before the jury that determined the defendant's
9 guilt; or

10 (2) before a jury impanelled for the purpose of the
11 proceeding if:

12 A. the defendant was convicted upon a plea of
13 guilty; or

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

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

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

20 (e) Evidence and Argument.

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

1 presented by the State or defendant regardless of its
2 admissibility under the rules governing the admission of
3 evidence at criminal trials. The State and the defendant shall
4 be given fair opportunity to rebut any information received at
5 the hearing.

6 (f) Proof.

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

11 (g) Procedure - Jury.

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

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

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

11 (h) Procedure - No Jury.

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

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

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

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

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

20 (i) Appellate Procedure.

21 The conviction and sentence of death shall be subject to
22 automatic review by the Supreme Court. Such review shall be in
23 accordance with rules promulgated by the Supreme Court. The
24 Illinois Supreme Court may overturn the death sentence, and
25 order the imposition of imprisonment under Chapter V of the
26 Unified Code of Corrections if the court finds that the death

1 sentence is fundamentally unjust as applied to the particular
2 case. If the Illinois Supreme Court finds that the death
3 sentence is fundamentally unjust as applied to the particular
4 case, independent of any procedural grounds for relief, the
5 Illinois Supreme Court shall issue a written opinion
6 explaining this finding.

7 (j) Disposition of reversed death sentence.

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

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

22 (k) Guidelines for seeking the death penalty.

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

1 (Source: P.A. 100-460, eff. 1-1-18; 100-513, eff. 1-1-18;
2 100-863, eff. 8-14-18; 101-223, eff. 1-1-20; 101-652, eff.
3 7-1-21.)

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

6 (725 ILCS 5/113-3) (from Ch. 38, par. 113-3)

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

16 (b) In all cases, except where the penalty is a fine only,
17 if the court determines that the defendant is indigent and
18 desires counsel, the Public Defender shall be appointed as
19 counsel. If there is no Public Defender in the county or if the
20 defendant requests counsel other than the Public Defender and
21 the court finds that the rights of the defendant will be
22 prejudiced by the appointment of the Public Defender, the
23 court shall appoint as counsel a licensed attorney at law of
24 this State, except that in a county having a population of

1 2,000,000 or more the Public Defender shall be appointed as
2 counsel in all misdemeanor cases where the defendant is
3 indigent and desires counsel unless the case involves multiple
4 defendants, in which case the court may appoint counsel other
5 than the Public Defender for the additional defendants. The
6 court shall require an affidavit signed by any defendant who
7 requests court-appointed counsel. Such affidavit shall be in
8 the form established by the Supreme Court containing
9 sufficient information to ascertain the assets and liabilities
10 of that defendant. The Court may direct the Clerk of the
11 Circuit Court to assist the defendant in the completion of the
12 affidavit. Any person who knowingly files such affidavit
13 containing false information concerning his assets and
14 liabilities shall be liable to the county where the case, in
15 which such false affidavit is filed, is pending for the
16 reasonable value of the services rendered by the public
17 defender or other court-appointed counsel in the case to the
18 extent that such services were unjustly or falsely procured.

19 (c) Upon the filing with the court of a verified statement
20 of services rendered the court shall order the county
21 treasurer of the county of trial to pay counsel other than the
22 Public Defender a reasonable fee. The court shall consider all
23 relevant circumstances, including but not limited to the time
24 spent while court is in session, other time spent in
25 representing the defendant, and expenses reasonably incurred
26 by counsel. In counties with a population greater than

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

18 (d) In capital cases, in addition to counsel, if the court
19 determines that the defendant is indigent the court may, upon
20 the filing with the court of a verified statement of services
21 rendered, order the county Treasurer of the county of trial to
22 pay necessary expert witnesses for defendant reasonable
23 compensation stated in the order not to exceed \$250 for each
24 defendant.

25 (e) If the court in any county having a population greater
26 than 2,000,000 determines that the defendant is indigent the

1 court may, upon the filing with the court of a verified
2 statement of such expenses, order the county treasurer of the
3 county of trial, in such counties having a population greater
4 than 2,000,000 to pay the general expenses of the trial
5 incurred by the defendant not to exceed \$50 for each
6 defendant.

7 (f) The provisions of this Section relating to appointment
8 of counsel, compensation of counsel, and payment of expenses
9 in capital cases apply except when the compensation and
10 expenses are being provided under the Capital Crimes
11 Litigation Act of 2023.

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

13 (725 ILCS 5/119-1)

14 Sec. 119-1. Death penalty abolished; partially restored.

15 (a) Except as otherwise provided in this Section,
16 beginning on July 1, 2011 (the effective date of Public Act
17 96-1543) and Beginning on the effective date of this
18 amendatory Act of the 96th General Assembly, notwithstanding
19 any other law to the contrary, the death penalty is abolished
20 and a sentence to death may not be imposed.

21 (a-5) Notwithstanding subsection (a), a defendant who at
22 the time of the commission of the offense has attained the age
23 of 18 or more years and who has been found guilty of first
24 degree murder under paragraph (1) of subsection (b) of Section
25 9-1 of the Criminal Code of 2012 may be sentenced to death.

1 (b) All unobligated and unexpended moneys remaining in ~~the~~
2 ~~Capital Litigation Trust Fund on the effective date of this~~
3 ~~amendatory Act of the 96th General Assembly shall be~~
4 ~~transferred into~~ the Death Penalty Abolition Fund on the
5 effective date of this amendatory Act of the 103rd General
6 Assembly shall be transferred into the Capital Litigation
7 Trust Fund, together with any moneys the Death Penalty
8 Abolition Fund may receive thereafter , ~~a special fund in the~~
9 ~~State treasury, to be expended by the Illinois Criminal~~
10 ~~Justice Information Authority, for services for families of~~
11 ~~victims of homicide or murder and for training of law~~
12 ~~enforcement personnel.~~

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

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

16 (725 ILCS 105/10) (from Ch. 38, par. 208-10)

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

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

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

24 (c) The State Appellate Defender may:

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

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

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

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

17 (5) (blank);

18 (5.1) in cases in which a death sentence is an
19 authorized disposition, provide trial counsel with legal
20 assistance and the assistance of expert witnesses,
21 investigators, and mitigation specialists from funds
22 appropriated to the State Appellate Defender specifically
23 for that purpose by the General Assembly. The Office of
24 State Appellate Defender shall not be appointed to serve
25 as trial counsel in capital cases;

26 (5.5) provide training to county public defenders;

1 (5.7) provide county public defenders with the
2 assistance of expert witnesses and investigators from
3 funds appropriated to the State Appellate Defender
4 specifically for that purpose by the General Assembly. The
5 Office of the State Appellate Defender shall not be
6 appointed to act as trial counsel;

7 (6) develop a Juvenile Defender Resource Center to:
8 (i) study, design, develop, and implement model systems
9 for the delivery of trial level defender services for
10 juveniles in the justice system; (ii) in cases in which a
11 sentence of incarceration or an adult sentence, or both,
12 is an authorized disposition, provide trial counsel with
13 legal advice and the assistance of expert witnesses and
14 investigators from funds appropriated to the Office of the
15 State Appellate Defender by the General Assembly
16 specifically for that purpose; (iii) develop and provide
17 training to public defenders on juvenile justice issues,
18 utilizing resources including the State and local bar
19 associations, the Illinois Public Defender Association,
20 law schools, the Midwest Juvenile Defender Center, and pro
21 bono efforts by law firms; and (iv) make an annual report
22 to the General Assembly.

23 Investigators employed by the Capital Trial Assistance
24 Unit and Capital Post Conviction Unit of the State Appellate
25 Defender shall be authorized to inquire through the Illinois
26 State Police or local law enforcement with the Law Enforcement

1 Agencies Data System (LEADS) under Section 2605-375 of the
2 Department of State Police Law of the Civil Administrative
3 Code of Illinois to ascertain whether their potential
4 witnesses have a criminal background, including, but not
5 limited to: (i) warrants; (ii) arrests; (iii) convictions; and
6 (iv) officer safety information. This authorization applies
7 only to information held on the State level and shall be used
8 only to protect the personal safety of the investigators. Any
9 information that is obtained through this inquiry may not be
10 disclosed by the investigators.

11 (c-5) For each State fiscal year, the State Appellate
12 Defender shall request a direct appropriation from the Capital
13 Litigation Trust Fund for expenses incurred by the State
14 Appellate Defender in providing assistance to trial attorneys
15 under paragraph (5.1) of subsection (c) of this Section and
16 for expenses incurred by the State Appellate Defender in
17 representing petitioners in capital cases in post-conviction
18 proceedings under Article 122 of the Code of Criminal
19 Procedure of 1963 and in relation to petitions filed under
20 Section 2-1401 of the Code of Civil Procedure in relation to
21 capital cases and for the representation of those petitioners
22 by attorneys approved by or contracted with the State
23 Appellate Defender and an appropriation to the State Treasurer
24 for payments from the Trust Fund for the defense of cases in
25 counties other than Cook County. The State Appellate Defender
26 may appear before the General Assembly at other times during

1 the State's fiscal year to request supplemental appropriations
2 from the Trust Fund to the State Treasurer.

3 (d) (Blank).

4 (e) The requirement for reporting to the General Assembly
5 shall be satisfied by filing copies of the report as required
6 by Section 3.1 of the General Assembly Organization Act and
7 filing such additional copies with the State Government Report
8 Distribution Center for the General Assembly as is required
9 under paragraph (t) of Section 7 of the State Library Act.
10 (Source: P.A. 99-78, eff. 7-20-15; 100-1148, eff. 12-10-18.)