

1 AN ACT in relation to criminal law.

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

4 Section 5. The Capital Crimes Litigation Act is amended
5 by changing Section 15 as follows:

6 (725 ILCS 124/15)

7 (Section scheduled to be repealed on July 1, 2004)

8 Sec. 15. Capital Litigation Trust Fund.

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

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

19 (c) Moneys deposited into the Trust Fund shall be used
20 exclusively for the purposes of providing funding for the
21 prosecution and defense of capital cases as provided in this
22 Act and shall not be appropriated, loaned, or in any manner
23 transferred to the General Revenue Fund of the State of
24 Illinois.

25 (d) Every fiscal year the State Treasurer shall transfer
26 from the General Revenue Fund to the Capital Litigation Trust
27 Fund an amount equal to the full amount of moneys
28 appropriated by the General Assembly (both by original and
29 supplemental appropriation), less any unexpended balance from
30 the previous fiscal year, from the Capital Litigation Trust
31 Fund for the specific purpose of making funding available for

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

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

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

13 (3) The State Appellate Defender shall request a
14 direct appropriation from the Trust Fund for expenses
15 incurred by the State Appellate Defender in providing
16 assistance to trial attorneys under item (c)(5) of
17 Section 10 of the State Appellate Defender Act and an
18 appropriation to the State Treasurer for payments from
19 the Trust Fund for the defense of cases in counties other
20 than Cook County.

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

28 (5) The Attorney General shall request a direct
29 appropriation from the Trust Fund to pay expenses
30 incurred by the Attorney General in assisting the State's
31 Attorneys in counties other than Cook County.

32 The Public Defender and State's Attorney in Cook County,
33 the State Appellate Defender, the State's Attorneys Appellate
34 Prosecutor, and the Attorney General may each request

1 supplemental appropriations from the Trust Fund during the
2 fiscal year.

3 (e) Moneys in the Trust Fund shall be expended only as
4 follows:

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

10 (2) To pay the capital litigation expenses of trial
11 defense including, but not limited to, investigatory and
12 other assistance, expert, forensic, and other witnesses,
13 and mitigation specialists, and grants and aid provided
14 to public defenders or assistance to attorneys who have
15 been appointed by the court to represent defendants who
16 are charged with capital crimes.

17 (3) To pay the compensation of trial attorneys,
18 other than public defenders, who have been appointed by
19 the court to represent defendants who are charged with
20 capital crimes.

21 (4) To provide State's Attorneys with funding for
22 capital litigation expenses including, but not limited
23 to, investigatory and other assistance, including
24 forensic testing under Section 116-3 of the Code of
25 Criminal Procedure of 1963, and expert, forensic, and
26 other witnesses necessary to prosecute capital cases.
27 State's Attorneys in any county other than Cook County
28 seeking funding for capital litigation expenses
29 including, but not limited to, investigatory and other
30 assistance, including forensic testing under Section
31 116-3 of the Code of Criminal Procedure of 1963, and
32 expert, forensic, or other witnesses under this Section
33 may request that the State's Attorneys Appellate
34 Prosecutor or the Attorney General, as the case may be,

1 certify the expenses as reasonable, necessary, and
2 appropriate for payment from the Trust Fund, on a form
3 created by the State Treasurer. Upon certification of
4 the expenses and delivery of the certification to the
5 State Treasurer, the Treasurer shall pay the expenses
6 directly from the Capital Litigation Trust Fund if there
7 are sufficient moneys in the Trust Fund to pay the
8 expenses.

9 (5) To provide financial support through the
10 Attorney General pursuant to the Attorney General Act for
11 the several county State's Attorneys outside of Cook
12 County, but shall not be used to increase personnel for
13 the Attorney General's Office.

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

20 (7) To provide financial support to the State
21 Appellate Defender pursuant to the State Appellate
22 Defender Act.

23 Moneys expended from the Trust Fund shall be in addition
24 to county funding for Public Defenders and State's Attorneys,
25 and shall not be used to supplant or reduce ordinary and
26 customary county funding.

27 (f) Moneys in the Trust Fund shall be appropriated to
28 the State Appellate Defender, the State's Attorneys Appellate
29 Prosecutor, the Attorney General, and the State Treasurer.
30 The State Appellate Defender shall receive an appropriation
31 from the Trust Fund to enable it to provide assistance to
32 appointed defense counsel throughout the State and to Public
33 Defenders in counties other than Cook. The State's Attorneys
34 Appellate Prosecutor and the Attorney General shall receive

1 appropriations from the Trust Fund to enable them to provide
2 assistance to State's Attorneys in counties other than Cook
3 County. Moneys shall be appropriated to the State Treasurer
4 to enable the Treasurer (i) to make grants to Cook County,
5 (ii) to pay the expenses of Public Defenders and State's
6 Attorneys in counties other than Cook County, (iii) to pay
7 the expenses and compensation of appointed defense counsel in
8 counties other than Cook County, and (iv) to pay the costs of
9 administering the Trust Fund. All expenditures and grants
10 made from the Trust Fund shall be subject to audit by the
11 Auditor General.

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

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

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

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

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

34 (5) Grant moneys shall be paid to the Cook County

1 Treasurer in block grants and held in separate accounts
2 for the State's Attorney, the Public Defender, and court
3 appointed defense counsel other than the Cook County
4 Public Defender, respectively, for the designated fiscal
5 year, and are not subject to county appropriation.

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

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

16 (h) If a defendant in a capital case in Cook County is
17 represented by court appointed counsel other than the Cook
18 County Public Defender, the appointed counsel shall petition
19 the court for an order directing the Cook County Treasurer to
20 pay the court appointed counsel's reasonable and necessary
21 compensation and capital litigation expenses from grant
22 moneys provided from the Trust Fund. These petitions shall be
23 considered in camera. Orders denying petitions for
24 compensation or expenses are final. Counsel may not petition
25 for expenses that may have been provided or compensated by
26 the State Appellate Defender under item (c)(5) of Section 10
27 of the State Appellate Defender Act.

28 (i) In counties other than Cook County, and excluding
29 capital litigation expenses or services that may have been
30 provided by the State Appellate Defender under item (c)(5) of
31 Section 10 of the State Appellate Defender Act:

32 (1) Upon certification by the circuit court, on a
33 form created by the State Treasurer, that all or a
34 portion of the expenses are reasonable, necessary, and

1 appropriate for payment from the Trust Fund and the
2 court's delivery of the certification to the Treasurer,
3 the Treasurer shall pay the certified expenses of Public
4 Defenders from the money appropriated to the Treasurer
5 for capital litigation expenses of Public Defenders in
6 any county other than Cook County, if there are
7 sufficient moneys in the Trust Fund to pay the expenses.

8 (2) If a defendant in a capital case is represented
9 by court appointed counsel other than the Public
10 Defender, the appointed counsel shall petition the court
11 to certify compensation and capital litigation expenses
12 including, but not limited to, investigatory and other
13 assistance, expert, forensic, and other witnesses, and
14 mitigation specialists as reasonable, necessary, and
15 appropriate for payment from the Trust Fund. Upon
16 certification on a form created by the State Treasurer of
17 all or a portion of the compensation and expenses
18 certified as reasonable, necessary, and appropriate for
19 payment from the Trust Fund and the court's delivery of
20 the certification to the Treasurer, the State Treasurer
21 shall pay the certified compensation and expenses from
22 the money appropriated to the Treasurer for that purpose,
23 if there are sufficient moneys in the Trust Fund to make
24 those payments.

25 (3) A petition for capital litigation expenses
26 under this subsection shall be considered in camera.
27 Orders denying petitions for compensation or expenses are
28 final.

29 (j) If the Trust Fund is discontinued or dissolved by an
30 Act of the General Assembly or by operation of law, any
31 balance remaining in the Trust Fund shall be returned to the
32 General Revenue Fund after deduction of administrative costs,
33 any other provision of this Act to the contrary
34 notwithstanding.

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