



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB0123**

Introduced 1/7/2005, by Rep. Bill Mitchell

**SYNOPSIS AS INTRODUCED:**

725 ILCS 124/2 new  
725 ILCS 124/5  
725 ILCS 124/10

Amends the Capital Crimes Litigation Act. Provides that the funding provisions of the Act are available to the State and defense in any case involving an offense for which the sentence of death may be imposed as a consequence of conviction, regardless of whether or not the State's Attorney indicated that he or she would seek the death penalty in that case. Provides that these provisions are retroactive to any capital case that is pending at the time of enactment or that is prosecuted on or after its effective date. Effective immediately.

LRB094 04174 RLC 34198 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

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

4 Section 5. The Capital Crimes Litigation Act is amended by  
5 changing Sections 5 and 10 and by adding Section 2 as follows:

6 (725 ILCS 124/2 new)

7 Sec. 2. Definition. In this Act, "capital case" means any  
8 case involving an offense for which the death penalty may be  
9 imposed as a consequence of conviction, regardless of whether  
10 or not the State's Attorney intends to seek the death penalty  
11 in that case.

12 (725 ILCS 124/5)

13 Sec. 5. Appointment of trial counsel in death penalty  
14 cases. If an indigent defendant is charged with an offense for  
15 which a sentence of death is authorized, ~~and the State's~~  
16 ~~Attorney has not, at or before arraignment, filed a certificate~~  
17 ~~indicating he or she will not seek the death penalty or stated~~  
18 ~~on the record in open court that the death penalty will not be~~  
19 ~~sought,~~ the trial court shall immediately appoint the Public  
20 Defender, or such other qualified attorney or attorneys as the  
21 Illinois Supreme Court shall by rule provide, to represent the  
22 defendant as trial counsel. If the Public Defender is  
23 appointed, he or she shall immediately assign such attorney or  
24 attorneys who are public defenders to represent the defendant.  
25 The counsel shall meet the qualifications as the Supreme Court  
26 shall by rule provide.

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

28 (725 ILCS 124/10)

29 Sec. 10. Court appointed trial counsel; compensation and  
30 expenses.

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

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.

14 Beginning in 2001, every January 20, the statutory rate  
15 prescribed in this subsection shall be automatically increased  
16 or decreased, as applicable, by a percentage equal to the  
17 percentage change in the consumer price index-u during the  
18 preceding 12-month calendar year. "Consumer price index-u"  
19 means the index published by the Bureau of Labor Statistics of  
20 the United States Department of Labor that measures the average  
21 change in prices of goods and services purchased by all urban  
22 consumers, United States city average, all items, 1982-84=100.  
23 The new rate resulting from each annual adjustment shall be  
24 determined by the State Treasurer and made available to the  
25 chief judge of each judicial circuit.

26 (c) Appointed trial counsel may also petition the court for  
27 certification of expenses for reasonable and necessary capital  
28 litigation expenses including, but not limited to,  
29 investigatory and other assistance, expert, forensic, and  
30 other witnesses, and mitigation specialists. Counsel may not  
31 petition for certification of expenses that may have been  
32 provided or compensated by the State Appellate Defender under  
33 item (c)(5) of Section 10 of the State Appellate Defender Act.

34 (d) Appointed trial counsel shall petition the court for  
35 certification of compensation and expenses under this Section  
36 periodically during the course of counsel's representation. If

1 the court determines that the compensation and expenses should  
2 be paid from the Capital Litigation Trust Fund, the court shall  
3 certify, on a form created by the State Treasurer, that all or  
4 a designated portion of the amount requested is reasonable,  
5 necessary, and appropriate for payment from the Trust Fund.  
6 Certification of compensation and expenses by a court in any  
7 county other than Cook County shall be delivered by the court  
8 to the State Treasurer and paid by the State Treasurer directly  
9 from the Capital Litigation Trust Fund if there are sufficient  
10 moneys in the Trust Fund to pay the compensation and expenses.  
11 Certification of compensation and expenses by a court in Cook  
12 County shall be delivered by the court to the county treasurer  
13 and paid by the county treasurer from moneys granted to the  
14 county from the Capital Litigation Trust Fund.

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

16 Section 95. Applicability. This amendatory Act of the 93rd  
17 General Assembly is applicable to any capital case pending on  
18 its effective date and to capital cases prosecuted on or after  
19 its effective date.

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.