



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5912

Introduced 2/16/2012, by Rep. Dennis M. Reboletti

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 140/7.5

720 ILCS 5/9-1

725 ILCS 5/113-3

725 ILCS 5/119-1

from Ch. 38, par. 9-1

from Ch. 38, par. 113-3

Amends the Criminal Code of 1961 relating to first degree murder. Adds and eliminates aggravating factors for which the death penalty may be imposed. Amends the Code of Criminal Procedure of 1963. Eliminates provision that abolishes the sentence of death. Enacts the Capital Crimes Litigation Act of 2012. Provides that all unobligated and unexpended moneys remaining in the Death Penalty Abolition Fund on the effective date of the amendatory Act shall be transferred into the Capital Litigation Trust Fund.

LRB097 19185 RLC 64427 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 1. Short title. This Act may be cited as the
5 Capital Crimes Litigation Act of 2012.

6 Section 5. Appointment of trial counsel in death penalty
7 cases. If an indigent defendant is charged with an offense for
8 which a sentence of death is authorized, and the State's
9 Attorney has not, at or before arraignment, filed a certificate
10 indicating he or she will not seek the death penalty or stated
11 on the record in open court that the death penalty will not be
12 sought, the trial court shall immediately appoint the Public
13 Defender, or such other qualified attorney or attorneys as the
14 Illinois Supreme Court shall by rule provide, to represent the
15 defendant as trial counsel. If the Public Defender is
16 appointed, he or she shall immediately assign such attorney or
17 attorneys who are public defenders to represent the defendant.
18 The counsel shall meet the qualifications as the Supreme Court
19 shall by rule provide. At the request of court appointed
20 counsel in a case in which the death penalty is sought,
21 attorneys employed by the State Appellate Defender may enter an
22 appearance for the limited purpose of assisting counsel
23 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 budgets
19 should be submitted ex parte and filed and maintained under
20 seal in order to protect the defendant's right to effective
21 assistance of counsel, right not to incriminate him or
22 herself and all applicable privileges. Case budgets shall
23 be reviewed and approved by the judge assigned to try the
24 case. As provided under subsection (c) of this Section,
25 petitions for compensation shall be reviewed by both the

1 trial judge and the presiding judge or the presiding
2 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 limited
24 to, counsel, expert, and investigative services, that
25 are likely to be needed through the guilt and penalty
26 phases of the trial. The court shall have discretion to

1 require that budgets be prepared for shorter intervals
2 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 such 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 hearing
10 is requested by defense counsel or deemed necessary by the
11 trial judge prior to modifying a budget, the ex parte
12 hearing shall be before the presiding judge or the
13 presiding judge's designee. The judge may then authorize
14 such services nunc pro tunc. If the presiding judge or the
15 presiding judge's designee finds that the services were not
16 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 or
26 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 average
16 change in prices of goods and services purchased by all urban
17 consumers, United States city average, all items, 1982-84=100.
18 The new rate resulting from each annual adjustment shall be
19 determined by the State Treasurer and made available to the
20 chief judge of each judicial circuit.

21 (c) Appointed trial counsel may also petition the court for
22 certification of expenses for reasonable and necessary capital
23 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 Procedure.
4 A provider of proposed services must also specify (1) his or
5 her hourly rate; (2) the hourly rate of anyone else in his or
6 her employ for whom reimbursement is sought; and (3) the hourly
7 rate of any person or entity that may be subcontracted to
8 perform these services. Counsel may not petition for
9 certification of expenses that may have been provided or
10 compensated by the State Appellate Defender under item (c)(5)
11 of Section 10 of the State Appellate Defender Act. The
12 petitions shall be filed under seal and considered ex parte but
13 with a court reporter present for all ex parte conferences. If
14 the requests are submitted after services have been rendered,
15 the requests shall be supported by an invoice describing the
16 services rendered, the dates the services were performed and
17 the amount of time spent. These petitions shall be reviewed by
18 both the trial judge and the presiding judge of the circuit
19 court or the presiding judge's designee. The petitions and
20 orders shall be kept under seal and shall be exempt from
21 Freedom of Information requests until the conclusion of the
22 trial, even if the prosecution chooses not to pursue the death
23 penalty prior to trial or sentencing. If an ex parte hearing is
24 requested by defense counsel or deemed necessary by the trial
25 judge, the hearing shall be before the presiding judge or the
26 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 must
8 certify reasonable and necessary expenses of the petitioner for
9 travel and per diem (lodging, meals, and incidental expenses).
10 These expenses must be paid at the rate as promulgated by the
11 United States General Services Administration for these
12 expenses for the date and location in which they were incurred,
13 unless extraordinary reasons are shown for the difference. The
14 petitions shall be filed under seal and considered ex parte but
15 with a court reporter present for all ex parte conferences. The
16 petitions shall be reviewed by both the trial judge and the
17 presiding judge of the circuit court or the presiding judge's
18 designee. If an ex parte hearing is requested by defense
19 counsel or deemed necessary by the trial judge, the ex parte
20 hearing shall be before the presiding judge or the presiding
21 judge's designee. If the court determines that the compensation
22 and expenses should be paid from the Capital Litigation Trust
23 Fund, the court shall certify, on a form created by the State
24 Treasurer, that all or a designated portion of the amount
25 requested is reasonable, necessary, and appropriate for
26 payment from the Trust Fund. The form must also be signed by

1 lead trial counsel under the provisions of Section 1-109 of the
2 Code of Civil Procedure verifying that the amount requested is
3 reasonable, necessary, and appropriate. Bills submitted for
4 payment by any individual or entity seeking payment from the
5 Capital Litigation Trust Fund must also be accompanied by a
6 form created by the State Treasurer and signed by the
7 individual or responsible agent of the entity under the
8 provisions of Section 1-109 of the Code of Civil Procedure that
9 the amount requested is accurate and truthful and reflects time
10 spent or expenses incurred. Certification of compensation and
11 expenses by a court in any county other than Cook County shall
12 be delivered by the court to the State Treasurer and must be
13 paid by the State Treasurer directly from the Capital
14 Litigation Trust Fund if there are sufficient moneys in the
15 Trust Fund to pay the compensation and expenses. If the State
16 Treasurer finds within 14 days of his or her receipt of a
17 certification that the compensation and expenses to be paid are
18 unreasonable, unnecessary, or inappropriate, he or she may
19 return the certification to the court setting forth in detail
20 the objection or objections with a request for the court to
21 review the objection or objections before resubmitting the
22 certification. The State Treasurer must send the claimant a
23 copy of the objection or objections. The State Treasurer may
24 only seek a review of a specific objection once. The claimant
25 has 7 days from his or her receipt of the objections to file a
26 response with the court. With or without further hearing, the

1 court must promptly rule on the objections. The petitions and
2 orders shall be kept under seal and shall be exempt from
3 Freedom of Information requests until the conclusion of the
4 trial and appeal of the case, even if the prosecution chooses
5 not to pursue the death penalty prior to trial or sentencing.
6 Certification of compensation and expenses by a court in Cook
7 County shall be delivered by the court to the county treasurer
8 and paid by the county treasurer from moneys granted to the
9 county from the Capital Litigation Trust Fund.

10 Section 15. Capital Litigation Trust Fund.

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

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

21 (c) Moneys deposited into the Trust Fund shall be used
22 exclusively for the purposes of providing funding for the
23 prosecution and defense of capital cases and for providing
24 funding for post-conviction proceedings in capital cases under
25 Article 122 of the Code of Criminal Procedure of 1963 and in

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

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

22 (1) The Public Defender in Cook County shall request
23 appropriations to the State Treasurer for expenses
24 incurred by the Public Defender and for funding for private
25 appointed defense counsel in Cook County.

26 (2) The State's Attorney in Cook County shall request

1 an appropriation to the State Treasurer for expenses
2 incurred by the State's Attorney.

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

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

24 (5) The Attorney General shall request a direct
25 appropriation from the Trust Fund to pay expenses incurred
26 by the Attorney General in assisting the State's Attorneys

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

16 (e) Moneys in the Trust Fund shall be expended only as
17 follows:

18 (1) To pay the State Treasurer's costs to administer
19 the Trust Fund. The amount for this purpose may not exceed
20 5% in any one fiscal year of the amount otherwise
21 appropriated from the Trust Fund in the same fiscal year.

22 (2) To pay the capital litigation expenses of trial
23 defense and post-conviction proceedings in capital cases
24 under Article 122 of the Code of Criminal Procedure of 1963
25 and in relation to petitions filed under Section 2-1401 of
26 the Code of Civil Procedure in relation to capital cases

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

18 (3) To pay the compensation of trial attorneys, other
19 than public defenders or appellate defenders, who have been
20 appointed by the court to represent defendants who are
21 charged with capital crimes or attorneys approved by or
22 contracted with the State Appellate Defender to represent
23 petitioners in post-conviction proceedings in capital
24 cases under Article 122 of the Code of Criminal Procedure
25 of 1963 and in relation to petitions filed under Section
26 2-1401 of the Code of Civil Procedure in relation to

1 capital cases.

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

1 Fund if there are sufficient moneys in the Trust Fund to
2 pay the expenses.

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

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

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

23 (f) Moneys in the Trust Fund shall be appropriated to the
24 State Appellate Defender, the State's Attorneys Appellate
25 Prosecutor, the Attorney General, and the State Treasurer. The
26 State Appellate Defender shall receive an appropriation from

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

1 capital cases in counties other than Cook County, and (iv) to
2 pay the costs of administering the Trust Fund. All expenditures
3 and grants made from the Trust Fund shall be subject to audit
4 by the Auditor General.

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

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

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

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

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

25 (5) Grant moneys shall be paid to the Cook County
26 Treasurer in block grants and held in separate accounts for

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

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

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

14 (h) If a defendant in a capital case in Cook County is
15 represented by court appointed counsel other than the Cook
16 County Public Defender, the appointed counsel shall petition
17 the court for an order directing the Cook County Treasurer to
18 pay the court appointed counsel's reasonable and necessary
19 compensation and capital litigation expenses from grant moneys
20 provided from the Trust Fund. The petitions shall be supported
21 by itemized bills showing the date, the amount of time spent,
22 the work done and the total being charged for each entry. The
23 court shall not authorize payment of bills that are not
24 properly itemized. The petitions shall be filed under seal and
25 considered ex parte but with a court reporter present for all
26 ex parte conferences. The petitions shall be reviewed by both

1 the trial judge and the presiding judge of the circuit court or
2 the presiding judge's designee. The petitions and orders shall
3 be kept under seal and shall be exempt from Freedom of
4 Information requests until the conclusion of the trial and
5 appeal of the case, even if the prosecution chooses not to
6 pursue the death penalty prior to trial or sentencing. Orders
7 denying petitions for compensation or expenses are final.
8 Counsel may not petition for expenses that may have been
9 provided or compensated by the State Appellate Defender under
10 item (c) (5) of Section 10 of the State Appellate Defender Act.

11 (i) In counties other than Cook County, and when the
12 Attorney General is ordered by the presiding judge of the
13 Criminal Division of the Circuit Court of Cook County to
14 prosecute or supervise the prosecution of Cook County cases,
15 and excluding capital litigation expenses or services that may
16 have been provided by the State Appellate Defender under item
17 (c) (5) of Section 10 of the State Appellate Defender Act:

18 (1) Upon certification by the circuit court, on a form
19 created by the State Treasurer, that all or a portion of
20 the expenses are reasonable, necessary, and appropriate
21 for payment from the Trust Fund and the court's delivery of
22 the certification to the Treasurer, the Treasurer shall pay
23 the certified expenses of Public Defenders and the State
24 Appellate Defender from the money appropriated to the
25 Treasurer for capital litigation expenses of Public
26 Defenders and post-conviction proceeding expenses in

1 capital cases of the State Appellate Defender and expenses
2 in relation to petitions filed under Section 2-1401 of the
3 Code of Civil Procedure in relation to capital cases in any
4 county other than Cook County, if there are sufficient
5 moneys in the Trust Fund to pay the expenses.

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

1 certified as reasonable, necessary, and appropriate for
2 payment from the Trust Fund and the court's delivery of the
3 certification to the Treasurer, the State Treasurer shall
4 pay the certified compensation and expenses from the money
5 appropriated to the Treasurer for that purpose, if there
6 are sufficient moneys in the Trust Fund to make those
7 payments.

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

15 (j) If the Trust Fund is discontinued or dissolved by an
16 Act of the General Assembly or by operation of law, any balance
17 remaining in the Trust Fund shall be returned to the General
18 Revenue Fund after deduction of administrative costs, any other
19 provision of this Act to the contrary notwithstanding.

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

22 (5 ILCS 140/7.5)

23 Sec. 7.5. Statutory Exemptions. To the extent provided for
24 by the statutes referenced below, the following shall be exempt

1 from inspection and copying:

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

4 (b) Library circulation and order records identifying
5 library users with specific materials under the Library Records
6 Confidentiality Act.

7 (c) Applications, related documents, and medical records
8 received by the Experimental Organ Transplantation Procedures
9 Board and any and all documents or other records prepared by
10 the Experimental Organ Transplantation Procedures Board or its
11 staff relating to applications it has received.

12 (d) Information and records held by the Department of
13 Public Health and its authorized representatives relating to
14 known or suspected cases of sexually transmissible disease or
15 any information the disclosure of which is restricted under the
16 Illinois Sexually Transmissible Disease Control Act.

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

19 (f) Firm performance evaluations under Section 55 of the
20 Architectural, Engineering, and Land Surveying Qualifications
21 Based Selection Act.

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

24 (h) Information the disclosure of which is exempted under
25 the State Officials and Employees Ethics Act, and records of
26 any lawfully created State or local inspector general's office

1 that would be exempt if created or obtained by an Executive
2 Inspector General's office under that Act.

3 (i) Information contained in a local emergency energy plan
4 submitted to a municipality in accordance with a local
5 emergency energy plan ordinance that is adopted under Section
6 11-21.5-5 of the Illinois Municipal Code.

7 (j) Information and data concerning the distribution of
8 surcharge moneys collected and remitted by wireless carriers
9 under the Wireless Emergency Telephone Safety Act.

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

14 (l) Records and information provided to a residential
15 health care facility resident sexual assault and death review
16 team or the Executive Council under the Abuse Prevention Review
17 Team Act.

18 (m) Information provided to the predatory lending database
19 created pursuant to Article 3 of the Residential Real Property
20 Disclosure Act, except to the extent authorized under that
21 Article.

22 (n) Defense budgets and petitions for certification of
23 compensation and expenses for court appointed trial counsel as
24 provided under Sections 10 and 15 of the Capital Crimes
25 Litigation Act of 2012. This subsection (n) shall apply until
26 the conclusion of the trial of the case, even if the

1 prosecution chooses not to pursue the death penalty prior to
2 trial or sentencing.

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

6 (p) Security portions of system safety program plans,
7 investigation reports, surveys, schedules, lists, data, or
8 information compiled, collected, or prepared by or for the
9 Regional Transportation Authority under Section 2.11 of the
10 Regional Transportation Authority Act or the St. Clair County
11 Transit District under the Bi-State Transit Safety Act.

12 (q) Information prohibited from being disclosed by the
13 Personnel Records Review Act.

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

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

18 (t) All identified or deidentified health information in
19 the form of health data or medical records contained in, stored
20 in, submitted to, transferred by, or released from the Illinois
21 Health Information Exchange, and identified or deidentified
22 health information in the form of health data and medical
23 records of the Illinois Health Information Exchange in the
24 possession of the Illinois Health Information Exchange
25 Authority due to its administration of the Illinois Health
26 Information Exchange. The terms "identified" and

1 "deidentified" shall be given the same meaning as in the Health
2 Insurance Accountability and Portability Act of 1996, Public
3 Law 104-191, or any subsequent amendments thereto, and any
4 regulations promulgated thereunder.

5 (u) Records and information provided to an independent team
6 of experts under Brian's Law.

7 (v) Names and information of people who have applied for or
8 received Firearm Owner's Identification Cards under the
9 Firearm Owners Identification Card Act.

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

13 (Source: P.A. 96-542, eff. 1-1-10; 96-1235, eff. 1-1-11;
14 96-1331, eff. 7-27-10; 97-80, eff. 7-5-11; 97-333, eff.
15 8-12-11; 97-342, eff. 8-12-11; revised 9-2-11.)

16 Section 105. The Criminal Code of 1961 is amended by
17 changing Section 9-1 as follows:

18 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

19 Sec. 9-1. First degree Murder - Death penalties -
20 Exceptions - Separate Hearings - Proof - Findings - Appellate
21 procedures - Reversals.

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

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

4 (2) he knows that such acts create a strong probability
5 of death or great bodily harm to that individual or
6 another; or

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

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

13 (1) Murder of a peace officer, correctional employee,
14 or fireman in the performance of his or her duties. The ~~the~~
15 murdered individual was a peace officer, employee of an
16 institution or facility of the Department of Corrections,
17 or any similar local correctional agency, or fireman killed
18 in the course of performing his official duties, to prevent
19 the performance of his official duties, or in retaliation
20 for performing his official duties, and the defendant knew
21 or should have known that the murdered individual was so
22 employed ~~a peace officer or fireman~~; or

23 (2) (Blank). ~~the murdered individual was an employee of~~
24 ~~an institution or facility of the Department of~~
25 ~~Corrections, or any similar local correctional agency,~~
26 ~~killed in the course of performing his official duties, to~~

1 ~~prevent the performance of his official duties, or in~~
2 ~~retaliation for performing his official duties, or the~~
3 ~~murdered individual was an inmate at such institution or~~
4 ~~facility and was killed on the grounds thereof, or the~~
5 ~~murdered individual was otherwise present in such~~
6 ~~institution or facility with the knowledge and approval of~~
7 ~~the chief administrative officer thereof; or~~

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

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

23 (5) Murder for hire. The ~~the~~ defendant committed the
24 murder pursuant to a contract, agreement or understanding
25 by which he was to receive money or anything of value in
26 return for committing the murder or procured another to

1 commit the murder for money or anything of value; or

2 (6) Murder while committing a Class X forcible felony.

3 The ~~the~~ murdered individual was killed in the course of
4 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 defendant
11 is legally accountable under Section 5-2 of this
12 Code, and the physical injuries inflicted by
13 either the defendant or the other person or persons
14 for whose conduct he is legally accountable caused
15 the death of the murdered individual; and

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

26 (c) the other felony was a forcible felony as

1 defined in Section 2-8 of this Code, which was
2 classified at the time of the offense as a Class X
3 felony ~~an inherently violent crime or the attempt to~~
4 ~~commit an inherently violent crime. In this~~
5 ~~subparagraph (c), "inherently violent crime" includes,~~
6 ~~but is not limited to, armed robbery, robbery,~~
7 ~~predatory criminal sexual assault of a child,~~
8 ~~aggravated criminal sexual assault, aggravated~~
9 ~~kidnapping, aggravated vehicular hijacking, aggravated~~
10 ~~arson, aggravated stalking, residential burglary, and~~
11 ~~home invasion; or~~

12 (7) Exceptionally brutal or heinous murder of a child,
13 or of an elderly or disabled person.

14 (a) The ~~the~~ murdered individual was (i) under 12
15 years of age or (ii) 65 years or older and the death
16 resulted from exceptionally brutal or heinous behavior
17 indicative of wanton cruelty; or

18 (b) the murdered individual was a disabled person
19 and the defendant knew or should have known that the
20 murdered individual was disabled and the death
21 resulted from exceptionally brutal or heinous behavior
22 indicative of wanton cruelty. For purposes of this
23 subparagraph (7) (b), "disabled person" means a person
24 who suffers from a permanent physical or mental
25 impairment resulting from disease, an injury, a
26 functional disorder, or a congenital condition that

1 renders the person incapable of adequately providing
2 for his or her own health or personal care; or

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

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

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

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

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

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

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

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

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

22 (17) (Blank). ~~the murdered individual was a disabled~~
23 ~~person and the defendant knew or should have known that the~~
24 ~~murdered individual was disabled. For purposes of this~~
25 ~~paragraph (17), "disabled person" means a person who~~
26 ~~suffers from a permanent physical or mental impairment~~

1 ~~resulting from disease, an injury, a functional disorder,~~
2 ~~or a congenital condition that renders the person incapable~~
3 ~~of adequately providing for his or her own health or~~
4 ~~personal care; or~~

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

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

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

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

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

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

9 (c) Consideration of factors in Aggravation and
10 Mitigation.

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

17 (1) the defendant has no significant history of prior
18 criminal activity;

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

23 (3) the murdered individual was a participant in the
24 defendant's homicidal conduct or consented to the
25 homicidal act;

26 (4) the defendant acted under the compulsion of threat

1 or menace of the imminent infliction of death or great
2 bodily harm;

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

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

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

9 (d) Separate sentencing hearing.

10 Where requested by the State, the court shall conduct a
11 separate sentencing proceeding to determine the existence of
12 factors set forth in subsection (b) and to consider any
13 aggravating or mitigating factors as indicated in subsection
14 (c). The proceeding shall be conducted:

15 (1) before the jury that determined the defendant's
16 guilt; or

17 (2) before a jury impanelled for the purpose of the
18 proceeding if:

19 A. the defendant was convicted upon a plea of
20 guilty; or

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

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

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

1 (e) Evidence and Argument.

2 During the proceeding any information relevant to any of
3 the factors set forth in subsection (b) may be presented by
4 either the State or the defendant under the rules governing the
5 admission of evidence at criminal trials. Any information
6 relevant to any additional aggravating factors or any
7 mitigating factors indicated in subsection (c) may be presented
8 by the State or defendant regardless of its admissibility under
9 the rules governing the admission of evidence at criminal
10 trials. The State and the defendant shall be given fair
11 opportunity to rebut any information received at the hearing.

12 (f) Proof.

13 The burden of proof of establishing the existence of any of
14 the factors set forth in subsection (b) is on the State and
15 shall not be satisfied unless established beyond a reasonable
16 doubt.

17 (g) Procedure - Jury.

18 If at the separate sentencing proceeding the jury finds
19 that none of the factors set forth in subsection (b) exists,
20 the court shall sentence the defendant to a term of
21 imprisonment under Chapter V of the Unified Code of
22 Corrections. If there is a unanimous finding by the jury that
23 one or more of the factors set forth in subsection (b) exist,
24 the jury shall consider aggravating and mitigating factors as
25 instructed by the court and shall determine whether the
26 sentence of death shall be imposed. If the jury determines

1 unanimously, after weighing the factors in aggravation and
2 mitigation, that death is the appropriate sentence, the court
3 shall sentence the defendant to death. If the court does not
4 concur with the jury determination that death is the
5 appropriate sentence, the court shall set forth reasons in
6 writing including what facts or circumstances the court relied
7 upon, along with any relevant documents, that compelled the
8 court to non-concur with the sentence. This document and any
9 attachments shall be part of the record for appellate review.
10 The court shall be bound by the jury's sentencing
11 determination.

12 If after weighing the factors in aggravation and
13 mitigation, one or more jurors determines that death is not the
14 appropriate sentence, the court shall sentence the defendant to
15 a term of imprisonment under Chapter V of the Unified Code of
16 Corrections.

17 (h) Procedure - No Jury.

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

22 If the Court determines that one or more of the factors set
23 forth in subsection (b) exists, the Court shall consider any
24 aggravating and mitigating factors as indicated in subsection
25 (c). If the Court determines, after weighing the factors in
26 aggravation and mitigation, that death is the appropriate

1 sentence, the Court shall sentence the defendant to death.

2 If the court finds that death is not the appropriate
3 sentence, the court shall sentence the defendant to a term of
4 imprisonment under Chapter V of the Unified Code of
5 Corrections.

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

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

26 (i) Appellate Procedure.

1 The conviction and sentence of death shall be subject to
2 automatic review by the Supreme Court. Such review shall be in
3 accordance with rules promulgated by the Supreme Court. The
4 Illinois Supreme Court may overturn the death sentence, and
5 order the imposition of imprisonment under Chapter V of the
6 Unified Code of Corrections if the court finds that the death
7 sentence is fundamentally unjust as applied to the particular
8 case. If the Illinois Supreme Court finds that the death
9 sentence is fundamentally unjust as applied to the particular
10 case, independent of any procedural grounds for relief, the
11 Illinois Supreme Court shall issue a written opinion explaining
12 this finding.

13 (j) Disposition of reversed death sentence.

14 In the event that the death penalty in this Act is held to
15 be unconstitutional by the Supreme Court of the United States
16 or of the State of Illinois, any person convicted of first
17 degree murder shall be sentenced by the court to a term of
18 imprisonment under Chapter V of the Unified Code of
19 Corrections.

20 In the event that any death sentence pursuant to the
21 sentencing provisions of this Section is declared
22 unconstitutional by the Supreme Court of the United States or
23 of the State of Illinois, the court having jurisdiction over a
24 person previously sentenced to death shall cause the defendant
25 to be brought before the court, and the court shall sentence
26 the defendant to a term of imprisonment under Chapter V of the

1 Unified Code of Corrections.

2 (k) Guidelines for seeking the death penalty.

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

7 (Source: P.A. 96-710, eff. 1-1-10; 96-1475, eff. 1-1-11.)

8 Section 110. The Code of Criminal Procedure of 1963 is
9 amended by changing Sections 113-3 and 119-1 as follows:

10 (725 ILCS 5/113-3) (from Ch. 38, par. 113-3)

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

20 (b) In all cases, except where the penalty is a fine only,
21 if the court determines that the defendant is indigent and
22 desires counsel, the Public Defender shall be appointed as
23 counsel. If there is no Public Defender in the county or if the
24 defendant requests counsel other than the Public Defender and

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

23 (c) Upon the filing with the court of a verified statement
24 of services rendered the court shall order the county treasurer
25 of the county of trial to pay counsel other than the Public
26 Defender a reasonable fee. The court shall consider all

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

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

1 defendant.

2 (e) If the court in any county having a population greater
3 than 2,000,000 determines that the defendant is indigent the
4 court may, upon the filing with the court of a verified
5 statement of such expenses, order the county treasurer of the
6 county of trial, in such counties having a population greater
7 than 2,000,000 to pay the general expenses of the trial
8 incurred by the defendant not to exceed \$50 for each defendant.

9 (f) The provisions of this Section relating to appointment
10 of counsel, compensation of counsel, and payment of expenses in
11 capital cases apply except when the compensation and expenses
12 are being provided under the Capital Crimes Litigation Act of
13 2012.

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

15 (725 ILCS 5/119-1)

16 Sec. 119-1. Death penalty restored ~~abolished~~.

17 (a) (Blank). ~~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 (b) All unobligated and unexpended moneys remaining in ~~the~~
22 ~~Capital Litigation Trust Fund on the effective date of this~~
23 ~~amendatory Act of the 96th General Assembly shall be~~
24 ~~transferred into~~ the Death Penalty Abolition Fund on the
25 effective date of this amendatory Act of the 97th General

1 Assembly shall be transferred into the Capital Litigation Trust
2 Fund , ~~a special fund in the State treasury, to be expended by~~
3 ~~the Illinois Criminal Justice Information Authority, for~~
4 ~~services for families of victims of homicide or murder and for~~
5 ~~training of law enforcement personnel.~~

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