



STATUTORY COURT FEE TASK FORCE

Illinois Court Assessments

Findings and Recommendations
for Addressing Barriers to Access
to Justice and Additional Issues
Associated with Fees and Other
Court Costs in Civil, Criminal,
and Traffic Proceedings

June 1, 2016

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I. Executive Summary

Illinois imposes a dizzying array of filing fees on civil litigants and court costs on defendants in criminal and traffic cases. Skyrocketing fees in civil cases in recent years have effectively priced many of our state's most economically vulnerable citizens out of the opportunity to participate in the court system. Similar increases in court costs for criminal and traffic proceedings now often result in financial impacts that are excessive for the offense in question and disproportionate to the fines that are intended to impose an appropriate punishment for the offense. In virtually all civil, traffic, and criminal proceedings, wide county-to-county variations in the fees and costs for the same type of proceedings injects additional arbitrariness and unfairness into the system.

Solutions to these problems have been identified. The Access to Justice Act created the Statutory Court Fee Task Force (hereafter "Task Force") - with members appointed by representatives of all three branches of Illinois government and both political parties - to study the current system of fees, fines, and other court costs (collectively, "assessments") and propose recommendations to the Illinois General Assembly and the Illinois Supreme Court to address this growing problem. Drawing upon the broad and varied experience of its members, whose numbers include legislators, judges, lawyers, and court clerks, the Task Force developed the package of recommendations contained in this Report. The members of the Task Force unanimously support adoption and implementation of these recommendations.

The recommendations address the problems summarized in four key findings by the Task Force presented below. The Task Force developed guiding principles, also summarized below, to articulate a comprehensive and internally consistent philosophy for addressing the findings. The Task Force eventually developed, refined, and finalized six recommendations that collectively will simplify the imposition, collection, and distribution of assessments while making them more transparent, affordable, and fair.

The four key findings of the Task Force are as follows:

1. *The nature and purpose of assessments have changed over time, leading to a byzantine system that attempts to pass an increased share of the cost of court administration onto the parties to court proceedings.*

The notion of a self-funded court system has gained increased currency in recent years, resulting in a complex web of filing fees, fines, surcharges, and other costs levied against civil litigants and criminal defendants. Cumulatively substantial despite often being individually modest, these assessments undermine the state's commitment to provide its citizens with access to the courts in civil proceedings, while distorting and unduly increasing the financial repercussions associated with criminal and traffic charges.

These problems have been exacerbated by the ability of various special interest groups to finance aspects of their operations on the backs of court users. Today, it is all too common for litigants to pay for services through additional assessments that are wholly unrelated to the court system.

2. *Court fines and fees are constantly increasing and are outpacing inflation.*

There has been a tremendous growth in the assessments imposed on the parties to court proceedings. Plaintiffs generally pay several hundred dollars simply to file a case. Civil defendants, who lack any say in whether to become involved in litigation, are often required to pay hundreds of dollars to defend themselves or risk a default judgment. Criminal and traffic defendants frequently leave court with hundreds, or even thousands, of dollars in assessments on top of what are supposed to be the only financial consequences intended to punish, namely, fines imposed by the court. The trend shows no sign of abating, as each new

legislative session brings with it fresh proposals for increased or additional assessments. At a time when many wages are stagnant, these additional assessments are creating further financial strain on low- and moderate-income litigants.

3. *There is excessive variation across the state in the amount of assessments for the same type of proceedings.*

The fairness of a court system is often measured in part by its consistency. It is therefore troubling that civil and criminal assessments in our state are wildly inconsistent from county to county. A civil litigant may pay three times as much as a resident in a neighboring county for the exact same court service. Criminal defendants may find that their sentences can be severely impacted by something as insignificant as the side of the street on which their arrest occurred. The resulting inconsistency threatens the fairness, both actual and perceived, of the current system.

4. *The cumulative impact of the assessments imposed on parties to civil lawsuits and defendants in criminal and traffic proceedings imposes severe and disproportionate impacts on low- and moderate-income Illinois residents.*

The collective impact of the current system of assessments is significant on financially insecure Illinois residents. Individuals and families in need of a legal remedy may go without if the costs of using the courts are too high. Criminal defendants may find their reentry into society severely burdened if their court debt is unmanageable. Without relief from runaway court costs, more and more Illinois residents will be forced to decide between protecting their legal rights and paying their basic living expenses.

These findings led the Task Force to adopt five core principles, which informed and influenced all of its recommendations:

1. *Role of Assessments in Funding the Courts.*

Courts should be substantially funded from general government revenue sources. Court users may be required to pay reasonable assessments to offset a portion of the cost of the courts borne by the public-at-large.

2. *Relationship between Assessments and Access to the Courts.*

The amount of assessments should not impede access to the courts and should be waived, to the extent possible, for indigent litigants and the working poor.

3. *Transparency and Uniformity.*

Assessments should be simple, easy to understand, and uniform to the extent possible.

4. *Relationship between Assessments and Their Underlying Rationale.*

Assessments should be directly related to the operation of the court system. Assessments imposed for a particular purpose should be limited to the types of court proceedings that are related to that purpose. Monies raised by assessments intended for a specific purpose should be used only for that purpose.

5. *Periodic Review.*

The General Assembly should periodically review all assessments to determine if they should be adjusted or repealed.

The Task Force developed six recommendations, in accordance with these core principles, to address the findings summarized above. The recommendations are as follows:

1. *The Illinois General Assembly should enact a schedule for court assessments that promotes affordability and transparency.*

The Task Force proposes enactment of the Court Clerk Assessment Act, a statute that will codify in one place all court assessments other than those imposed in connection with the disposition of criminal and traffic proceedings. The proposed legislation recognizes four classes of civil cases and creates different assessment schedules for each class. The Supreme Court would assign each type of civil case to one of the four classes. For assessments imposed in connection with the filing of a complaint by a plaintiff or an appearance by a defendant, the various permissible assessments are grouped into three categories based on the recipient of those funds (the Court Clerk, the County Treasurer, and the State Treasurer), and a maximum assessment amount for each category is established.

Depending on the category or assessment in question, the county board, clerk of court, or Supreme Court would be authorized to set the applicable category or fee amount, up to the maximum allowed by the Act. Generally speaking, the amount for each category would function akin to a block grant, with the recipient of the fees possessing discretion to decide how to allocate those funds among the purposes authorized by the Act.

While the Court Clerk Assessment Act would not create uniform assessments throughout the State - a goal that the Task Force has concluded cannot realistically be achieved in the immediate future - the Act would reduce variations across counties and would significantly improve the simplicity and transparency of the imposition, collection, and distribution of assessments in civil proceedings.

2. *The General Assembly and the Supreme Court should authorize amendments to the current civil fee waiver statute and related Supreme Court Rule, respectively, to provide financial relief from assessments in civil cases to Illinois residents living in or near poverty.*

The Task Force proposes expansion of the existing civil fee waiver statute. The current statute uses the federal poverty level as a benchmark, providing automatic waivers to individuals living under 125% of the federal poverty level or otherwise qualifying for public benefits tied to poverty. The Task Force proposes expanding waivers of assessments in civil cases by creating a sliding scale waiver that offers a partial waiver of assessments to individuals earning between 125% and 200% of the federal poverty level.

The Task Force also recommends providing for periodic review of assessment waivers and giving judges authority to reconsider or revoke waivers. That authority will combat potential fraud in obtaining assessment waivers and will enable judges to better tailor partial or complete waivers to individual needs as they may vary over time.

These amendments to the civil fee waiver statute would be implemented by corresponding amendments to the applicable Supreme Court Rule.

3. *The General Assembly should authorize a uniform assessment schedule for criminal and traffic case types that is consistent throughout the state.*

The Task Force proposes enactment of the Criminal/Traffic Assessment Act, a statute that would codify in one place all of the current assessments imposed in connection with the disposition of traffic or criminal charges. Much like the proposed Court Clerk Assessment Act, the legislature would establish fees for various classes of cases (the Criminal/Traffic Assessment Act would create 12 such classes) and the Supreme Court

would assign each type of case to the appropriate schedule based on the nature of the alleged offense. Unlike assessments under the Court Clerk Assessment Act, however, assessments imposed under the Criminal/Traffic Assessment Act would be uniform statewide, and counties and circuit clerks would play no role in setting the amounts of those assessments.

4. *The General Assembly and the Supreme Court should authorize the waiver or reduction of assessments, but not judicial fines, imposed on criminal defendants living in or near poverty.*

The Task Force proposes the enactment of an assessment waiver statute for criminal cases similar to that recommended for civil proceedings. Implemented by Supreme Court Rule, the waivers would *not* include assessments pertaining to alleged violations of the Illinois Vehicle Code or punitive fines or restitution ordered by the court.

5. *The General Assembly and the Supreme Court should modify the process by which fines for minor traffic offenses are calculated under Supreme Court Rule 529.*

Current Supreme Court Rule 529 provides that, upon a plea of guilty to a minor traffic violation not requiring a court appearance, all fines, penalties, and costs are to be set equal to bail. The Task Force proposes severing the link between bail and fine amounts. Instead, the Criminal/Traffic Assessment Act proposed by the Task Force fixes the total assessment at \$150 in all minor traffic cases in which the defendant chooses to plead guilty without coming to court.

6. *The General Assembly should routinely consult a checklist of important considerations before proposing new assessments, and should periodically consult the checklist in reviewing existing assessments.*

The Task Force has developed a checklist to guide legislators in (1) developing or reviewing new assessment proposals, and (2) periodically reviewing existing assessments to determine whether they should be modified or repealed. The checklist is intended to help ensure that the improvements produced by the Task Force's other recommendations are not eroded over time and that future assessments decisions are well-considered, consistent, and transparent.

II. History of the Task Force

This Report is the result of one year of intensive study and analysis by the Statutory Court Fee Task Force (“Task Force”) – a statutorily created body with bipartisan representation from all three branches of Illinois government. The Access to Justice Act¹ created the Task Force to conduct a thorough review of the various statutory fees and fines imposed on civil litigants and on defendants in criminal and traffic proceedings. The Task Force was directed to submit this Report, containing its findings and recommendations, to the General Assembly and the Supreme Court by June 1, 2016.

The 15 members of the Task Force were appointed as follows: one each by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, and the Minority Leader of the Senate; two by the Governor; two by the Illinois Association of Court Clerks; and one by each of the seven Justices of the Illinois Supreme Court. The resulting group included judges, retired judges, legislators, circuit clerks, and members of the private bar from across the state.

Members of the Task Force

- Chair: Steven F. Pflaum, Neal, Gerber & Eisenberg LLP
- Representative Steven Andersson, Illinois General Assembly (R-Geneva)
- Chasity Boyce, Office of the Governor
- (Ret.) Judge Steven Culliton, Circuit Court of DuPage County
- Judge Thomas Donnelly, Circuit Court of Cook County
- (Ret.) Judge John P. Freese, Circuit Court of McLean County
- Maureen Josh, Circuit Clerk of DeKalb County
- Judge James L. Kaplan, Circuit Court of Cook County
- Katherine M. Keefe, Circuit Clerk of McHenry County
- John Maki, Illinois Criminal Justice Information Authority
- Senator John G. Mulroe, Illinois General Assembly (D-Chicago)
- Representative Elaine Nekritz, Illinois General Assembly (D-Buffalo Grove)
- Senator Dale Righter, Illinois General Assembly (R-Mattoon)
- Dawn Sallerson, Hinshaw & Culbertson LLP
- Adam Vaught, Hinshaw & Culbertson LLP

¹Access to Justice Act, 705 ILCS 95/25, available at <http://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=070500950K25>.

The first meeting of the Task Force was held on June 23, 2015, and members met every month thereafter. Civil and criminal/traffic subcommittees were created to focus on issues unique to those kinds of court proceedings. The civil subcommittee was chaired by Judge James L. Kaplan and the criminal/traffic subcommittee was chaired by Circuit Clerk Katherine M. Keefe. The subcommittees met frequently, often several times a month, and developed recommendations that were reviewed and revised by the full Task Force.

Acknowledgments

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The members of the Task Force also wish to express their appreciation for the assistance of the following individuals: Chief Judge Michael J. Sullivan of the Twenty-Second Judicial Circuit; John Amdor, from the Office of Representative Elaine Nekritz; Robin Murphy, from the Illinois Criminal Justice Information Authority; Caroline Chapman, from LAF; Malcolm Rich, Ali Abid, Matt Daniels, and Robert Dolehide, from the Chicago Appleseed Fund for Justice; *pro bono* research assistants Zach Zarnow and Stephanie Snow; and Holly L. Barocio and Allan J. Nacapuy of Neal, Gerber & Eisenberg LLP for their assistance with the layout and design of the print and electronic versions of this report.

The work of the Task Force would not have been possible without research, administrative, and drafting support from the Administrative Office of Illinois Courts. Special thanks go to Danielle Hirsch, Todd Schroeder, Alison Spanner, Samira Nazem, Angela Miner, Dan Mueller, and Tammy Sours of the AOIC, as well as to AOIC Director Michael Tardy.

III. Introduction

Eight hundred years ago, the drafters of the Magna Carta recognized the importance of even-handed access to justice when they proclaimed “to no one will we refuse or delay, right or justice.” This theme has echoed throughout American history, from the provisions in the Bill of Rights protecting the right to jury trial, the right to counsel, and the prohibition against excessive fines, to the declaration in the Illinois Constitution that every person “shall obtain justice by law, freely, completely, and promptly.”³

Today, Illinois is facing a serious threat to this fundamental right of equal access to justice. Skyrocketing filing fees in civil cases and a host of fees, costs, and fines in criminal and traffic proceedings are pricing our most vulnerable citizens out of full participation in the court system and imposing excessive financial burdens on all who do participate. This undermines the legitimacy of the court system, both actual and perceived, and its capacity to disseminate fair and equal justice to all.

Historically, court fees were intended simply to offset a portion of the cost of the services being provided.⁴ Recognizing that the court system benefitted *all* members of society, a majority of funding came from taxpayer revenue. Today, civil litigants and defendants in criminal and traffic proceedings still pay fees designed to cover the costs associated with administering their cases. However, they are now required to cover many additional costs, including, but not limited to, those associated with court security, law libraries, and children’s waiting rooms, as well as programs completely unrelated to the administration of justice like roadside memorials and after-school programs. Over the years, more and more costs have been passed on to court patrons through an elaborate web of fees and fines that are next to impossible to decipher and severely lacking in uniformity and transparency.

This Report explores in depth the shortcomings of the current system and its impact on Illinois citizens. The Report concludes with a series of recommendations to address those problems.

² Reginald Heber Smith, *Justice and the Poor*, 1919, p.5.

³ Ill. Const. of 1970, art. I, section 12.

⁴ See generally, *Crocker v. Finley*, 99 Ill. 2d 444 (1984); Ella Baker Center for Human Rights, *Who Pays? The True Cost of Incarceration of Families*, September 2015, p.15, available at <http://whopaysreport.org/who-pays-full-report/>.

A Note about the Scope of This Report

This Report focuses exclusively on the assessments charged to litigants in the Illinois circuit courts by circuit clerks or judges. It does not address the imposition of similar costs in non-judicial administrative hearings. Administrative hearings in Illinois take place in many different administrative bodies pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/). Such hearings are administered by independent quasi-judicial bodies and operate outside of the state court system. Illinois residents appearing in front of administrative law hearing officers may encounter similar financial challenges and barriers to those appearing in the circuit courts as many municipalities, in particular, are increasingly using administrative hearings to collect revenue from residents. While it often appears to the public that administrative hearings are a part of the court system, the fines, fees, or other costs collected through administrative hearings are not used to fund the court system, are outside the control of the state judiciary, and are beyond the scope of this Report.

IV. Definitions

Assessments include all fees, costs, and other charges imposed on (a) parties to civil cases and (b) defendants in criminal and traffic proceedings, with the exception of fines that are ordered by a judge as punishment in the exercise of his or her discretion.

Fees are charges imposed on a party to reimburse the cost of a specific court activity or program. Fees are intended to support the operational costs of the justice system as a whole, in addition to reimbursing costs related to litigation, supervision, or incarceration in a particular case. The Illinois Supreme Court has held that some charges labeled as “fees” truly function as taxes because “...a charge having no relation to the services rendered, assessed to provide general revenue rather than compensation, is a tax.” Fees are assessed by a clerk.

Fines are monetary punishments for infractions, misdemeanors, or felonies. Fines are primarily intended to deter crime and punish offenders. Fines can be mandatory or discretionary. Mandatory fines are fixed amounts that are included in what this Report terms “assessments.” Discretionary fines may be ordered by a judge depending on the specific facts of the case and are not considered to be “assessments.” The Illinois Supreme Court has held that some charges in criminal proceedings labeled as “fees” actually function as fines if the charges do not compensate the State for the cost of prosecuting the defendant. Fines are assessed by a judge.

⁵ *Crocker v. Finley*, 99 Ill.2d 444, 452 (1984).

⁶ *People v. Graves*, 235 Ill. 2d 244, 255 (2009) (holding that a \$10 mental health court fee and a \$5 youth diversion/peer court fee “although labeled as ‘fees,’ are in fact fines, which are punitive in nature”).

V. Court Assessments: An Overview

The process by which court assessments are calculated has become more complex over time. What was once a simple dollar amount directly related to the cost of processing the case before the court has become a much more complicated calculation that can involve hundreds, or even thousands, of dollars divvied up among dozens of recipients. The following discussion describes the process by which court assessments are proposed, authorized, and ultimately assessed against litigants. The first two sections will describe the composition of civil and criminal assessments, respectively. The last section will explain the process by which assessments are proposed and authorized.

Civil Assessments

To participate in civil litigation, each party must first pay the applicable court assessments. While the total amount can vary widely – by both case type and the county in which the case is pending – each county follows the same basic formula in calculating civil assessments.

As shown in Figure 1, an assessment in a civil case is actually a composite of many different categories of fees, each one intended to defray the cost of a different aspect of the court’s operations. A civil assessment is akin to a recipe that combines a number of ingredients. The first ingredient is the filing fee for plaintiffs or the appearance fee for defendants. The base filing fee or appearance fee is intended to reimburse the court for the cost of adding one more case to the docket. This fee currently varies in amount depending on case type and county size and forms the baseline cost to which everything else is added.⁷

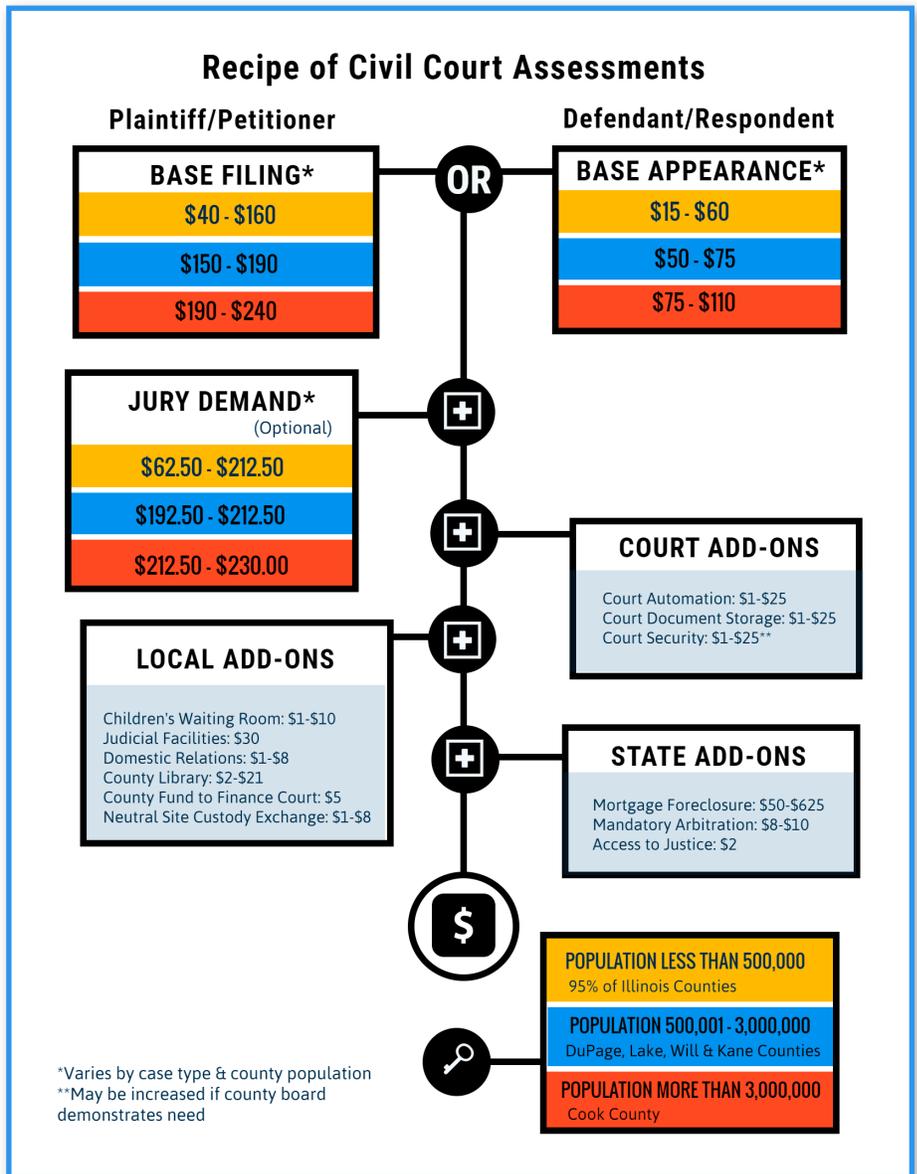


Figure 1

⁷ The base filing/appearance fees are labeled as a “Clerk Filing Fee,” in 705 ILCS 105/27.1a 2. However, these fees are directed to the county’s general revenue fund, not the Circuit Clerk.

If either party elects to request a jury trial, that party incurs a jury demand fee. Next, a number of court add-on fees are added to the mix (e.g., court automation or document storage). The revenue collected from the court add-on fees is used to fund court operations.

Local and state add-on fees are the final ingredients. The local add-on fees cover services that are specific to a particular jurisdiction (e.g., a law library fee or children’s waiting room fee if the local courthouse has one), while the state add-on fees cover broader services (e.g., Access to Justice Fee). The revenue collected from local fees stay in the county where the case is heard, while the money collected from state fees go to the state. Some of these add-on fees are mandated by law in all counties and case types, but others are discretionary and, when imposed, vary in amount from county to county.

It should be noted that most fees are collected twice in each civil case, once from the plaintiff/petitioner and once from the defendant/respondent if he or she chooses to participate.

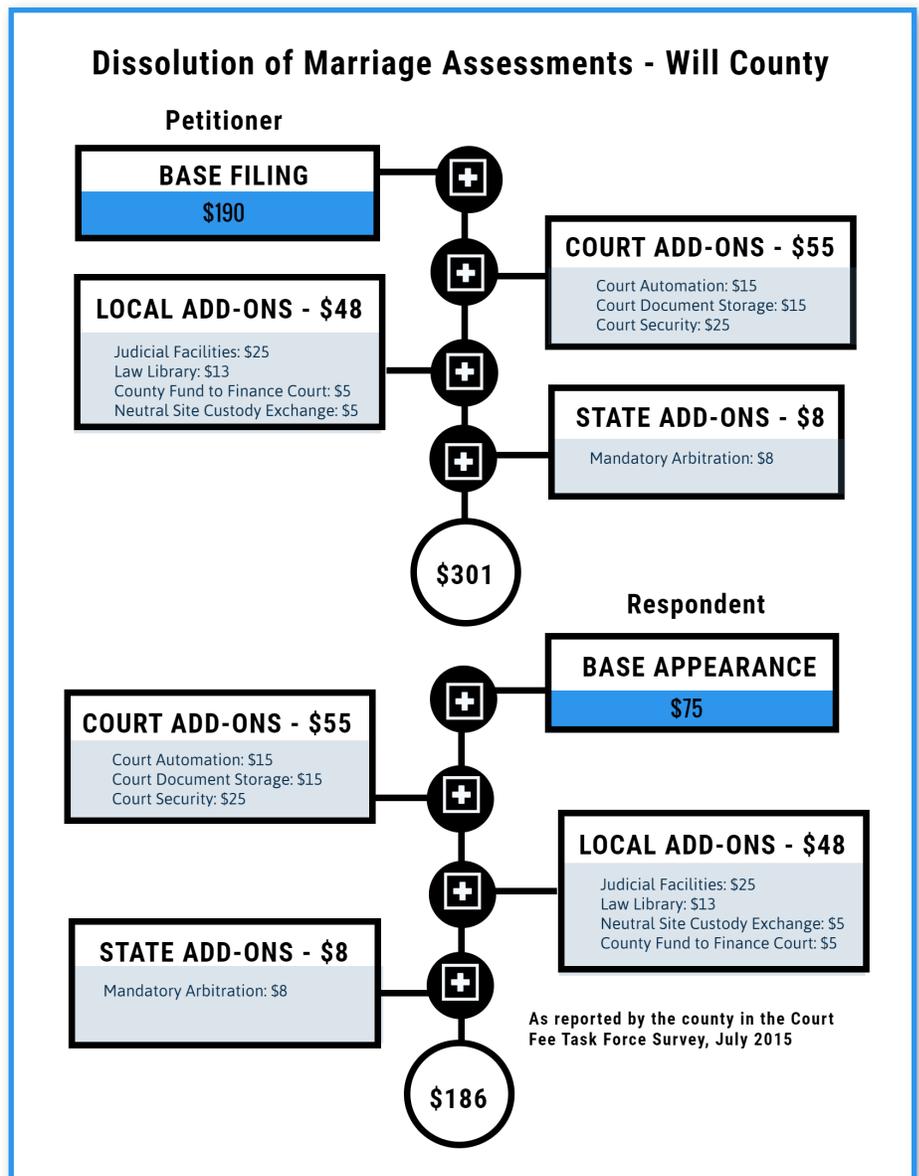


Figure 2

To understand how this works, consider the following example taken from a recent case involving a married couple in Will County who were seeking to dissolve their marriage. As shown in Figure 2, the petitioner paid a \$190 base filing fee, \$55 in court fees (\$15 Court Automation Fund, \$15 Document Storage Fund, and \$25 Court Security Fee), \$8 in state fees (\$8 Mandatory Arbitration Fee), and \$48 in local fees (\$25 Judicial Facilities Fee, \$13 Law Library Fee, \$5 County Fund to Finance the Court, and \$5 Neutral Site Custody Exchange). Once all of the extra court fees and state and local add-ons are calculated, the initial \$190 base fee increased by almost 60%, to a total of \$301.

The respondent in the Will County proceeding paid a total of \$186 to participate in the lawsuit. The \$186 in court assessments consists of a \$75 appearance fee and the same court, state, and local add-on fees paid by the petitioner (\$55 court add-on fees, \$8 state add-on fees, and \$48 local add-on fees). While the base appearance fee is only \$75, the amount paid by the respondent more than doubled once the entire assessment was calculated.

Criminal/Traffic Assessments

In criminal and traffic proceedings, assessments are imposed at the conclusion of a case and are not a prerequisite for participation, as they are in civil litigation. Criminal and traffic assessments are a combination of mandatory fines and fees. Restitution and discretionary fines may be imposed by a judge as part of a criminal defendant's punishment and are not included in the court assessments; instead, those costs are tailored to the nature of the crime and the judge has broad discretion to set them within the parameters laid out by statute. Mandatory court fees and fines, however, are set amounts fixed by the county board or authorized by state statute.⁸ The mandatory amounts are applied, without discretion, to all criminal defendants regardless of the specific facts of their cases.

Similar to a civil litigant's assessments, a criminal defendant's assessments are calculated by adding a variety of state and local charges to the baseline filing fee. Because fines also must be

considered on the criminal side, the recipe for calculating criminal and traffic assessments involves more ingredients. The recipe is harder to generalize than that for assessments in civil cases because there is far more variance, both from county to country and from case type to case type. Nevertheless, it is still useful to examine the core costs included in the assessments imposed in criminal and traffic cases.

As shown in Figure 3, the first ingredient in calculating criminal court assessments is the base fee which is paid by the criminal defendant and varies by offense and county population size. Payment of the base fee essentially requires a criminal defendant to subsidize the prosecution's costs in bringing the case against him or her. Next, the defendant is charged the same court fees that civil litigants are assessed in every courthouse across the state (e.g., court security and document storage). Depending on the jurisdiction and case type, the defendant may also have to pay fees to cover the cost of attorneys involved in the case, including both the costs of the public defender's office

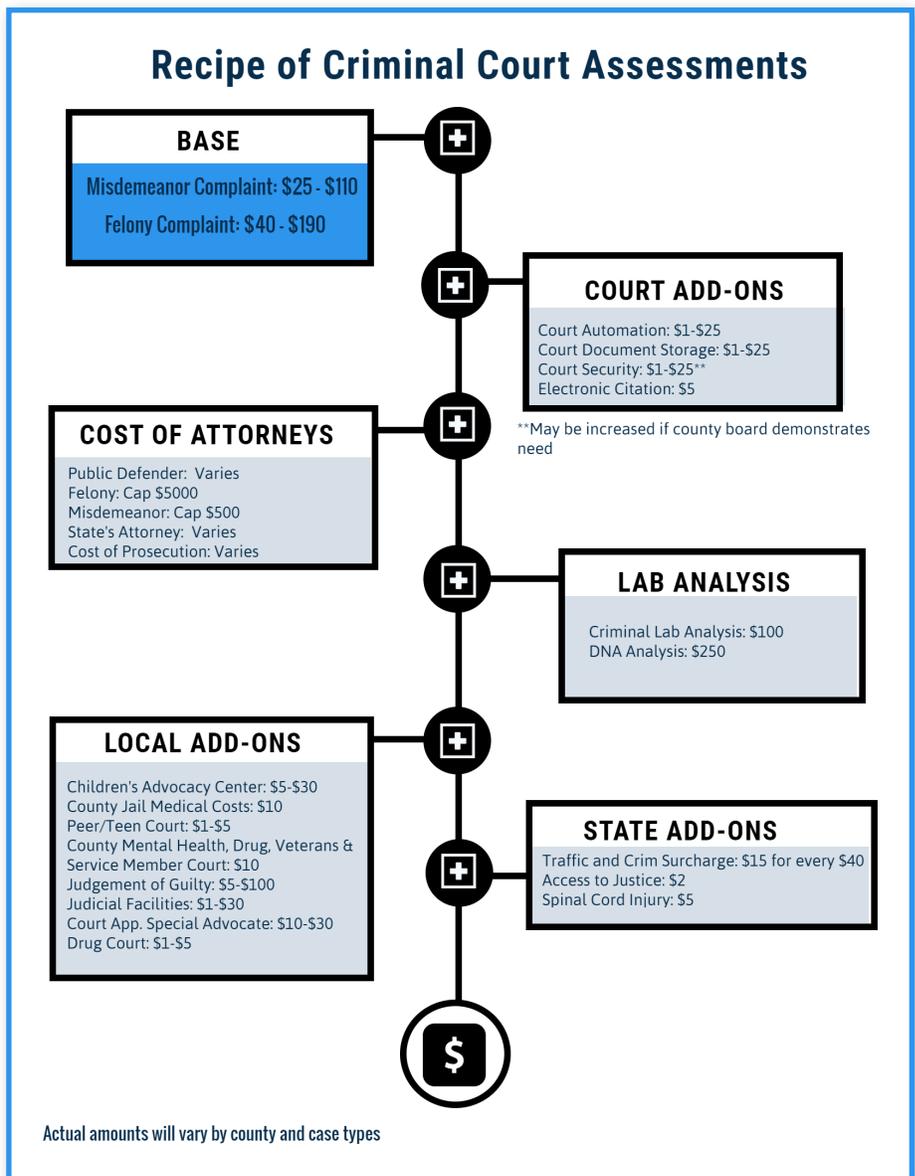


Figure 3

⁸ Illinois law caps the amount of a discretionary fine at \$25,000 for a felony; \$2,500 for a Class A misdemeanor; and \$1,500 for all other misdemeanors. See 730 Ill. Comp. Stat. 5/5-4.5-50(b), 730 Ill. Comp. Stat. 5/5-4.5-55(e), 730 Ill. Comp. Stat. 5/5-4.5-60(e).

defending the case and the state’s attorney’s office prosecuting it, and to the police department to subsidize the costs of the arresting officer’s time. In addition, a defendant is often assessed DNA and/or lab analysis fees, which cover the costs of any lab fees involved in prosecution of the case.

Mandatory state and local add-on fees and fines come next. These are amounts authorized by the state or county (some the same as the local add-ons for civil cases, some unique to criminal proceedings), and are usually relatively small in size but large in number. It is not uncommon for a traffic or criminal defendant to be charged dozens of these “minor” fines which can, in the aggregate, create a significant financial burden. The number of fines varies depending on location and case type, but every criminal and traffic defendant can expect to face some of them at the time of conviction. The total criminal assessment is calculated once all of the additional court, state, and local statutory fees are added to the base filing fee. However, this amount does not include any judicial fines or restitution ordered in the judge’s discretion as punishment for the defendant’s crime.

Consider the recent example of a defendant in McHenry County who was convicted of Driving Under the Influence (DUI) and fined \$150 by the judge. That defendant paid a total of \$1,625 in court assessments (in addition to the \$150 fine imposed by the judge). As illustrated in Figure 4, this amount is calculated by assessing \$75 as a base fee and then adding \$90 in court fees (\$15 Court Automation Fee, \$15 Court Document Storage Fee, \$15 Court Security Fee, and \$5 E-Citation Fee) and \$12 for the cost of attorneys (\$2 State’s Attorney Automation Fee and \$10 State’s Attorney Fee). Finally, the defendant was assessed a series of 11 state and local add-on fees totaling \$1,448 (including fees for

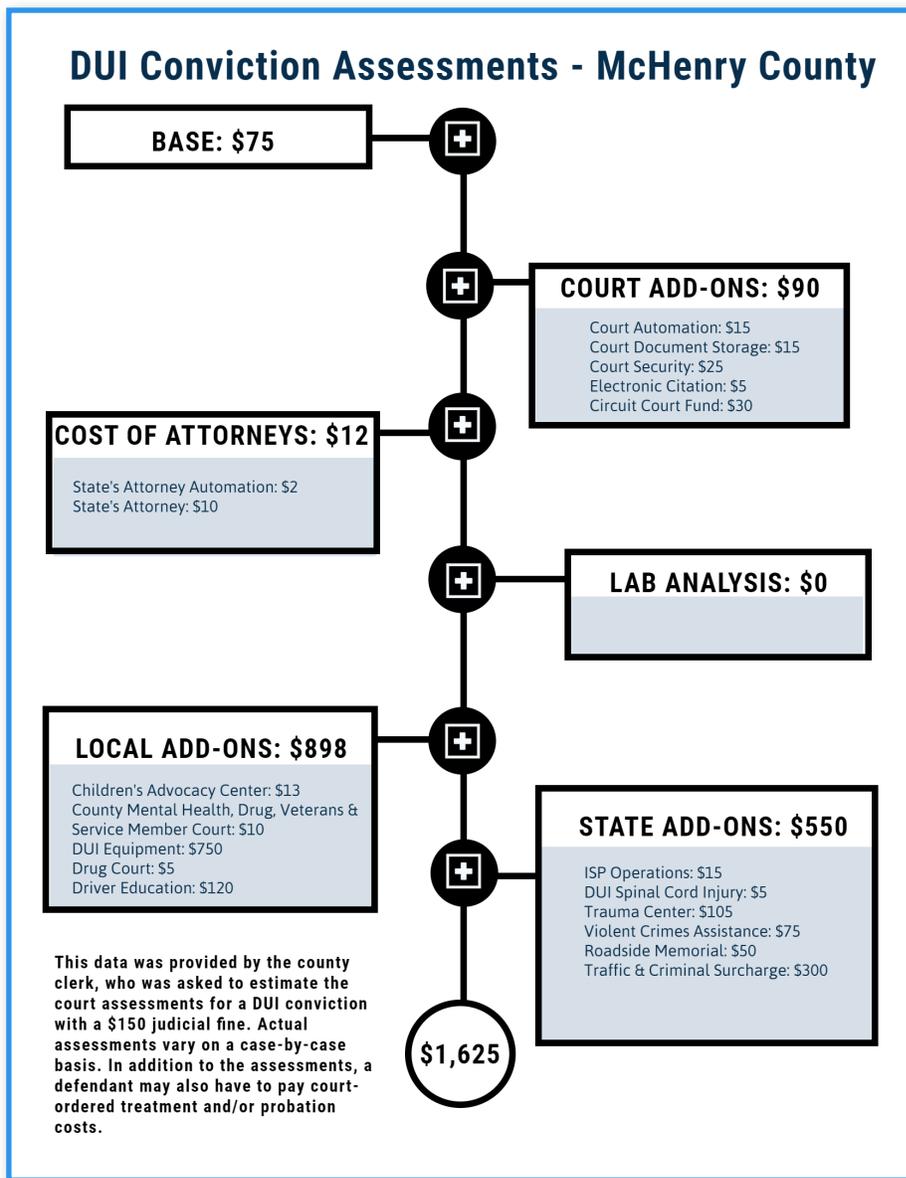


Figure 4

⁹ Shriver Center, *Debt Arising from Illinois’ Criminal Justice System: Making Sense of the Ad Hoc Accumulation of Financial Obligations*, November 2009, p.9-19, available at <http://povertylaw.org/sites/default/files/files/webinars/criminaldebt/debt-report.pdf>.

¹⁰ *Id.* at 18-20.

¹¹ Illinois law caps the amount of a discretionary fine at \$25,000 for a felony; \$2,500 for a Class A misdemeanor; and \$1,500 for all other misdemeanors. See 730 Ill. Comp. Stat. 5/5-4.5-50(b), 730 Ill. Comp. Stat. 5/5-4.5-55(e), 730 Ill. Comp. Stat. 5/5-4.5-60(e).

Children’s Advocacy Centers, Drug Court, Driver Education, Spinal Cord Research, and Roadside Memorial Funds, among others). All told, the assessments totaled \$1,625, increasing the base filing fee of \$75 by more than 2,000%. The total assessments were more than ten times the \$150 judge-ordered fine. This example highlights the disconnect that can occur between the discretionary fine ordered by a judge as punishment and the fixed costs – ostensibly not intended to punish – which are unrelated to the specific offense and set by statute.

On top of the judicial fine and court assessments, the defendant will also be charged for mandatory DUI treatment, a program which routinely costs several thousands of dollars. Similar requirements exist for defendants convicted on Domestic Violence charges. Some criminal charges also add on a surcharge, an additional cost calculated as a percentage of the fine, at the end of the case. For example, the Criminal and Traffic Surcharge provides that a court may assess an additional \$15 fine for every \$40 in fines assessed, or a 37.5% surcharge, against a defendant as part of the punishment. It is not uncommon for a criminal defendant to leave court with total expenses in the thousands of dollars.

As these examples demonstrate, under the current system court fees are complicated to understand and calculate. The final cost assessed against a litigant often bears little or no relation to the actual cost of the court in administering the case. This Report will explain in more detail what the consequences of the current system are and how they negatively impact court users and the courts, before proposing a number of recommendations to address these issues.

Legislative Process for Creating New Fees and Fines

Any county, branch of government, agency, or special interest group can lobby a legislator to sponsor a bill that would add a new cost to be assessed against civil litigants, traffic or criminal defendants, or both. All such bills must include a provision for distributing the revenue to the appropriate county, agency, or special interest group after it is paid by the litigants and collected by the court.

As illustrated in Figure 5, court assessments originate as bills which must be passed by the General Assembly and signed by the governor. Many bills then require the additional step of a county ordinance before the assessment can be collected. Statutory fines, however, do not require local approval; the law itself typically sets out to which entity the fine is remitted. Once the new law authorizing the fee or fine goes into effect, the clerk (for fees) or the judge (for fines) is tasked with assessing the cost against all applicable litigants.

Consider, for example, the new Judicial Facilities Fees enacted in 2015.¹³ The Judicial Facilities Fee allows two counties – Will and Kane Counties – to assess a fee of up to \$30 in all civil matters at the time of filing and in criminal and traffic matters at the time of conviction if the defendant appeared in court. The fee is intended to help fund the construction of new judicial facilities. At the time of this writing, Will County is the only county that has enacted a Judicial Facilities Fee, approving a \$25 fee in all civil and criminal proceedings.¹⁴ While the current statutory authority restricts the application of a Judicial Facilities Fee to those two counties, there is little reason to believe the collection of a Judicial Facilities Fee will be limited to Will or Kane Counties. In fact, in this legislative session alone, there are two pending bills in the General Assembly that would allow Montgomery County¹⁵ and Lake County¹⁶, respectively, to have the authority to impose a Judicial Facilities Fee not to exceed \$30.

¹³ 55 ILCS 5/5-1101.3.

¹⁴ *Ordinance Establishing the Judicial Facilities Fee and the Judicial Facilities Construction Fund*, Will County Ordinance 15-23 (2015).

¹⁵ SB2503.

¹⁶ SB2784.

As these examples show, there is no one entity responsible for proposing and administering court fees. Nor is there one statute that lays out all of the existing fees. Instead, dozens of different agencies have proposed fees that are codified in dozens of different statutes – which has allowed filing fees to take on broader and broader purposes that are less directly related to litigation and court administration. The next section of the Report will discuss this practice in greater detail and the impact that it has on court patrons.

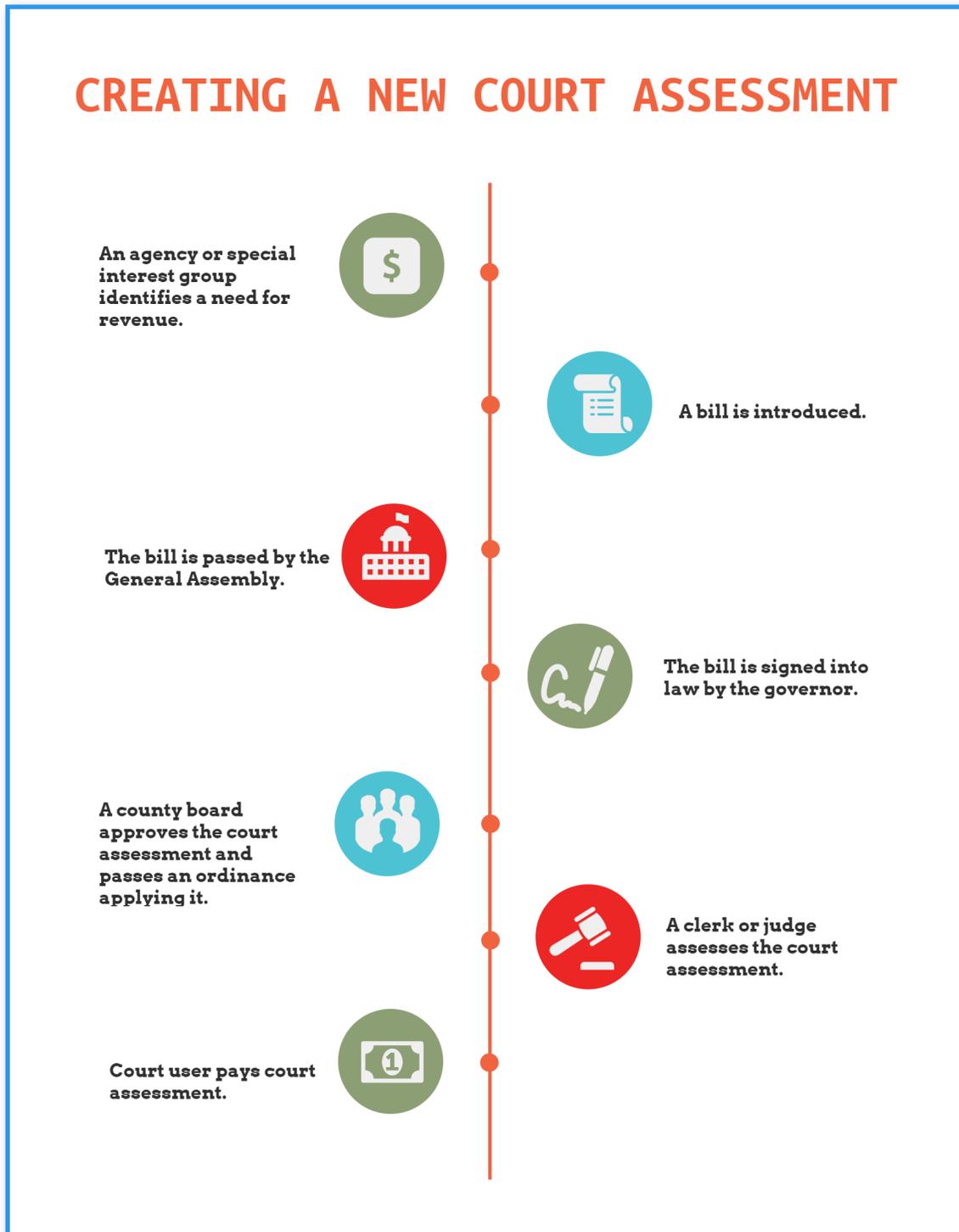


Figure 5

VI. Court Assessments: Four Key Findings

After a yearlong study, the Task Force made four key findings regarding the current system of imposing, collecting, and disbursing court assessments. The current system charges litigants an increasing number of assessments that are imposed in a manner that is opaque and inconsistent. The end result places an undue burden on litigants, impedes access to justice for civil litigants and reentry into society for criminal defendants, creates an administrative nightmare for court clerks responsible for collecting and disbursing assessments, and erodes public confidence in the judicial system.

The four key findings are as follows:

1. *The nature and purpose of assessments have changed over time, leading to a byzantine system that attempts to pass an increased share of the cost of court administration onto the parties to court proceedings.*
2. *Court fines and fees are constantly increasing and are outpacing inflation.*
3. *There is excessive variation across the state in the amount of assessments for the same type of proceedings.*
4. *The cumulative impact of the assessments imposed on parties to civil lawsuits and defendants in criminal and traffic proceedings imposes severe and disproportionate impacts on low- and moderate-income Illinois residents.*

Each of these findings is discussed below.

Finding #1: The nature and purpose of assessments have changed over time, leading to a byzantine system that attempts to pass an increased share of the cost of court administration onto the parties to court proceedings.

Most litigants are unaware that their court costs are comprised of a number of fees intended to fund a variety of services and projects. With growing frequency, counties are passing the costs of operating their court systems on to parties to civil cases and defendants in criminal and traffic cases. A complex network of add-on fees intended to fund specific programs and special interests, often increasing the final cost to court users exponentially, is now added to the baseline filing fees that were initially designed to reimburse a court for the cost of adding one more case to its docket. Courts are increasingly treated as revenue generators – and litigants by extension as revenue providers.

Civil Proceedings

Many assessments in civil cases are not true user fees, but instead function as taxes levied against civil litigants to fund public welfare programs for the general good.¹⁷ For example, many counties charge all civil litigants a fee to fund the children’s waiting room. It does not matter if the litigant has young children, or if those children use the waiting room. Instead, the fee, like many others, acts as a tax imposed on all civil litigants alike, regardless of their level of interaction with the court system.¹⁸ Because these court assessments are generally bundled together and presented to the litigant as one lump sum, there is no transparency and it is extremely difficult for litigants to know what it is they have just “purchased” with their court assessments. Many litigants would presumably be shocked to learn what a small percentage of their court assessments are actually used to fund the cost of administering their case.

As state and local budgets have become tighter over the years, circuit courts have increasingly turned to their “customer base” of litigants to raise funds for their own operations. Consider the Judicial Facilities Fees described above. This new fee, assessed against litigants in Will County, is intended to raise funds “for the sole purpose of funding in whole or in part the costs associated with building new judicial facilities within the county.”¹⁹ This is a prime example of the legislature attempting to “shift some of the costs of facility expansion from property taxes to user fees.”²⁰ Furthermore, there is no sunset date for the fee, so it could, theoretically, be assessed indefinitely, even after the new courthouse is built.²¹

¹⁷ See *Crocker v. Finley*, 99 Ill. 2d 444, 452 (1984) (“court charges imposed on a litigant are fees if assessed to defray the expenses of his litigation. On the other hand, a charge having no relation to the services rendered, assessed to provide general revenue rather than compensation, is a tax.”)

¹⁸ *Id.*

¹⁹ 55 ILCS 5/5-1101.3.

²⁰ “SB 1336 Would Allow Kane to Charge \$40 Fee to Help Pay for Judicial Facilities,” *Kane County Connects* (February 24, 2015), Available at <http://kanecountyconnects.com/2015/02/new-state-sentate-bill-would-allow-kane-to-charge-fees-pay-for-facilities/>.

²¹ *Id.*

Criminal/Traffic Proceedings

On the criminal and traffic side, defendants routinely face dozens of fees and fines that fund any number of programs. Assessments fund special interest projects ranging from providing bridge loans to burn victims,²² to offering zero-interest loans to local fire departments for new fire trucks,²³ to supporting spinal cord injury research.²⁴ While many of these add-on court assessments are small in size – only a few dollars each – the collective impact can be staggering, especially to indigent defendants. In addition, the burden imposed by this proliferation of assessments extends to court clerks and others responsible for distributing the revenues generated by these add-ons to the designated recipients.

For example, a defendant recently convicted of Driving Under the Influence (DUI) in McLean County paid court assessments to be distributed to 25 separate funds for varying local, county, and state purposes. As Figure 6 explains, of the \$1,752 collected from that defendant, only \$135 (8%) was actually used to reimburse the court for specific costs associated with the case and general overhead. That means over 90% of the total assessment was earmarked for programs and services that were unrelated to the pending litigation.

At the county level, \$163.63 goes to cover other county expenses associated with the criminal justice system including county jail medical costs, probation services, and a state's attorney records automation fund, among other services and costs. The bulk of the money, \$1,101.37, is distributed to the state to fund services and programs including the Illinois State Police, maintenance of the Law Enforcement Agencies Data System (LEADS), trauma centers, fire truck safety, and roadside memorials. One of the newest such costs assessed to convicted DUI defendants is called the George Bailey Memorial Fund, whose proceeds are to be used to provide burn victims with less than 18 months to live with a loan equal to five months of Social Security Disability payments that the burn victim will receive from the Social Security Office after a five-month waiting period.²⁵ Finally, the municipality where the defendant was prosecuted receives \$352 of the total amount for the arresting agency to defray its costs.

None of the foregoing is intended to question the value of the various funded programs to society at large. However, many, if not most, of the programs have an attenuated connection to a DUI conviction or even the criminal justice system. In this DUI example (and countless others), there must be a mechanism to ensure that the system does not impose unreasonable financial obligations to fund other governmental services, and that court assessments are not simply an alternate and hidden form of taxation.

²² Public Act 99-0455.

²³ 20 ILCS 3501/825-80.

²⁴ 30 ILCS 105/6z-50.

²⁵ Public Act 99-0455.

Distribution of the Statutory Fees and Fines in a DUI Case in McLean County

As reported in the August 2015 IVC Fees Three Violations Survey, the Manual on Fines and Fees, and Compiled Statutes.

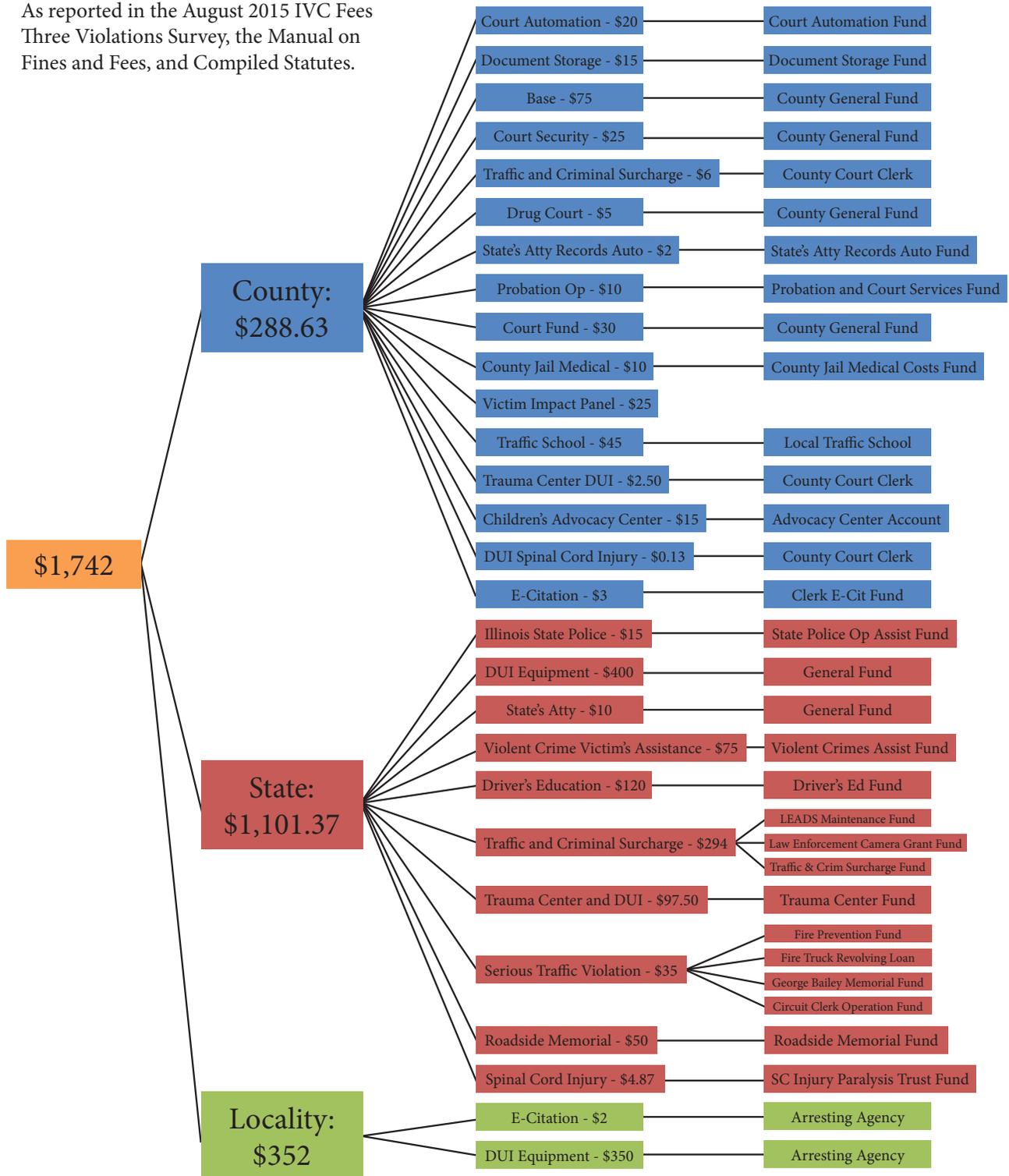


Figure 6

Finding #2: Court fines and fees are constantly increasing and outpacing inflation.

Relying on litigants to fund court operations and programs with little or no connection with the courts has led to significant increases in court assessments. As a policy matter, there is growing concern that mounting assessments in civil cases threatens the viability of the courts as an economically feasible method for dispute resolution. For defendants in traffic or criminal proceedings, the financial repercussions associated with assessments are often disproportionate to the offense and to the fine that is intended to constitute the appropriate punishment.

Civil Proceedings

On the civil side, the steady trend of rising court assessments is exemplified by the maximum filing fee authorized for large counties (like Will or Kane). Figure 7 reveals that this fee has grown by approximately 80% since 2000. At the other end of the litigation spectrum, consider a small claims action with an amount in controversy of \$450. Small claims actions are intended to be relatively straightforward and easy methods for resolving minor disputes like failure to return a security deposit or to fix a car correctly. In 2015, in DeKalb County, it cost \$118 to file the case as a plaintiff, and \$113 to respond as a defendant. In 2016, only one year later, the cost had increased to \$148 to file the case as a plaintiff and \$143 to respond. While the \$30 increases may not seem significant, they constitute increases in excess of 25% in the span of a single year. The total payment to the court by the parties equals \$291, which could very well eclipse the value of the amount in controversy.



Figure 7

This trend shows no signs of abating. In September 2015, an amendment to the Access to Justice Act authorized an additional \$2 fee to be collected from every litigant, civil and criminal, to finance legal services for veterans and active duty service members.²⁶ In the 2015-2016 legislative session that followed, at least eight bills were introduced proposing new assessments or increases to the maximum amount collectable under existing laws. The civil side saw two counties seeking a Judicial Facilities Fee of up to \$30, plus proposals for a statewide \$9 EBusiness²⁷ fee and a \$15 Juror Services²⁸ fee. If all these bills are enacted, in the coming year all civil litigants could see at least a \$24 increase in initial filing fees; and civil litigants in Montgomery and Lake counties could see an increase of up to \$54.

Some existing assessments have also recently been increased. For example, the Bureau County Board recently approved a resolution to increase the Court Security Fee charged to every litigant from \$25 to \$75.²⁹ This three-fold increase is allowed under the state law which caps court security fees at \$25 unless the county requesting the increase conducts an “acceptable cost study.”³⁰

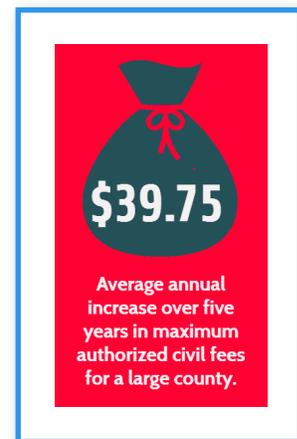


Figure 8

²⁶ 705 ILCS 105/27.3g

²⁷ SB3162.

²⁸ HB 5742.

²⁹ See Goldie Rapp, “New \$\$\$ for Courthouse Security,” *Bureau County Republican*, August 10, 2015, available at <http://www.bcrnews.com/2015/08/10/new-for-courthouse-security/aiwx71n/>; Bureau County Board Agenda, April 14, 2016, available at https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKewjG_KmpysPMAhWHdR4KHxVsAvIQFggpMAI&url=http%3A%2F%2Fbureaucountyil.iqm2.com%2FCitizens%2FfileOpen.aspx%3FType%3D14%26ID%3D1014&usg=AFQjCNERLGEdxHb9SoqnFSyR4XKloT1s6w&sig2=mTqKQAazazO77_eCh0xDHw.

³⁰ 55 ILCS 5/5-1103.

Criminal/Traffic Proceedings

The growth in the number and amount of assessments has been even steeper on the criminal side. Consider the example of DUI convictions. Under the current system, statutory maximums are set by population size. As shown in Figure 9, the maximum amount in large counties has grown by more than 300 percent since 2000, with much of that growth happening within the past five years. Taking the example of a defendant convicted of a DUI in DuPage County, from 1995 to 2015, the number of add-on fees increased from nine to 27. The amount of those fees also increased – from \$300 to \$2,172. That is an increase of more than 600% in just 20 years. Furthermore, as Figure 10 demonstrates, DuPage County is not an outlier. This same kind of growth is happening in every county throughout the state.

It should also be recognized that, in addition to court assessments, court users may incur other significant costs in connection with judicial proceedings. Such “hidden” costs may relate to transportation to and from court, parking, time off work, and child care obligations. In addition, court-ordered fees may be incurred after the filing of a civil action or sentencing in a criminal action, such as fees for service of process, court-ordered mediation, court-ordered parenting classes, or probation costs. Defendants found guilty of a DUI or domestic battery are required to pay for treatment which can cost several thousand dollars. And of course, litigants who can afford to retain an attorney can incur significant additional expense if they choose to do so.

The cumulative amount of assessments and hidden costs undermines the economic viability of civil litigation and the reasonableness of the economic burdens associated with criminal and traffic proceedings. In light of the fact that the benefits derived from the efficient administration of justice are not limited to the parties to court proceedings, there must be a recalibration of the balance between the growing desire for additional government revenue and the cumulative cost of litigation.



Figure 9

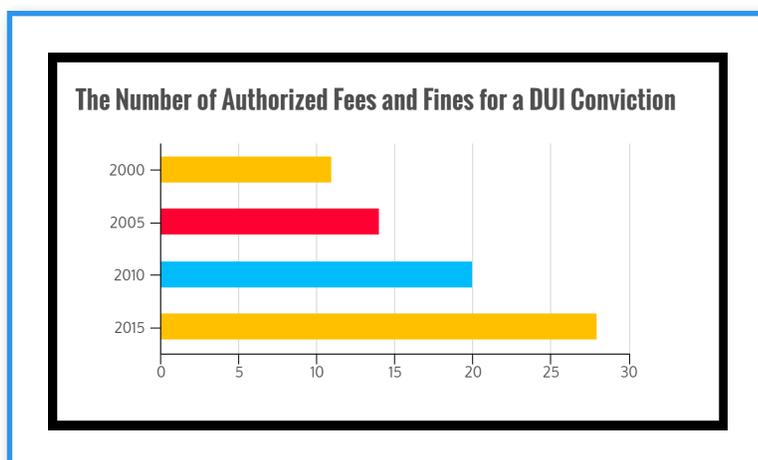


Figure 10

Finding #3: There is excessive variation across the state in the amount of assessments for the same type of proceedings.

We have previously explained how counties play a large role in setting the amount of court assessments. The price for county discretion, however, is a lack of statewide uniformity. County control over what rates to charge and which add-on fees to collect has led to wildly different court assessments and fines throughout the state for the same type of civil, traffic, or criminal proceedings.

Civil Proceedings

By statute, the baseline filing and appearance fees are tied to county size, so a litigant in a county with a larger population will pay higher fees than a litigant in a county with a smaller population. Many of the other components of a total filing fee are authorized by county boards at varying levels across the state, producing a pronounced lack of uniformity.

Figures 11-14 demonstrate at a glance the vastly different financial obligations imposed on litigants depending on their location. In Illinois, two parties wishing to dissolve their marriage will face substantially different financial burdens based on nothing more than the county in which they happen to file their case. To see how this plays out in practice, we will examine the costs recently faced by three married couples seeking to dissolve their marriages in Knox County, Will County, and Cook County, respectively.

Figure 11 shows that, relatively speaking, the Knox County couple received a bargain, paying only \$280 in combined court costs to dissolve their marriage (the petitioner initiating the case will pay \$165 and the respondent will pay \$115). In contrast, as Figure 13 shows, the Will County couple paid a combined \$487 in court costs to dissolve their marriage (\$301 from the petitioner and \$186 from the respondent). The Will County petitioner's filing fees of \$301 are almost twice the amount charged to the Knox County petitioner to initiate the exact same case.

Finally, consider the financial burden faced by the Cook County couple. As the most populous county in the state, Cook County is also the most expensive for many types of litigation. Figure 14 shows that the dissolution case cost the Cook County petitioner and respondent \$342 and \$206, respectively, or a combined \$548 in court assessments. Cook County also has the highest concentration of residents living in or near poverty of anywhere in the state. A potential petitioner who could barely afford the \$165 fee to initiate a case in Knox County may have to think twice, or pass altogether, before initiating the same case in Cook County.

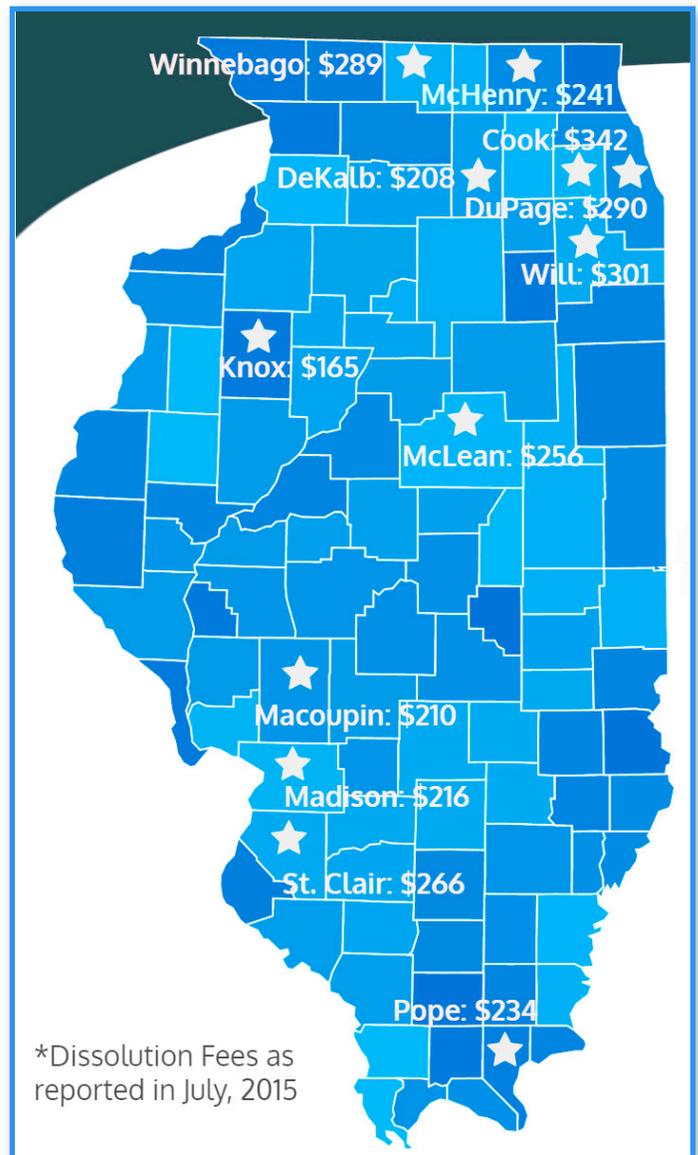


Figure 11

Dissolution of Marriage Assessments - Knox County

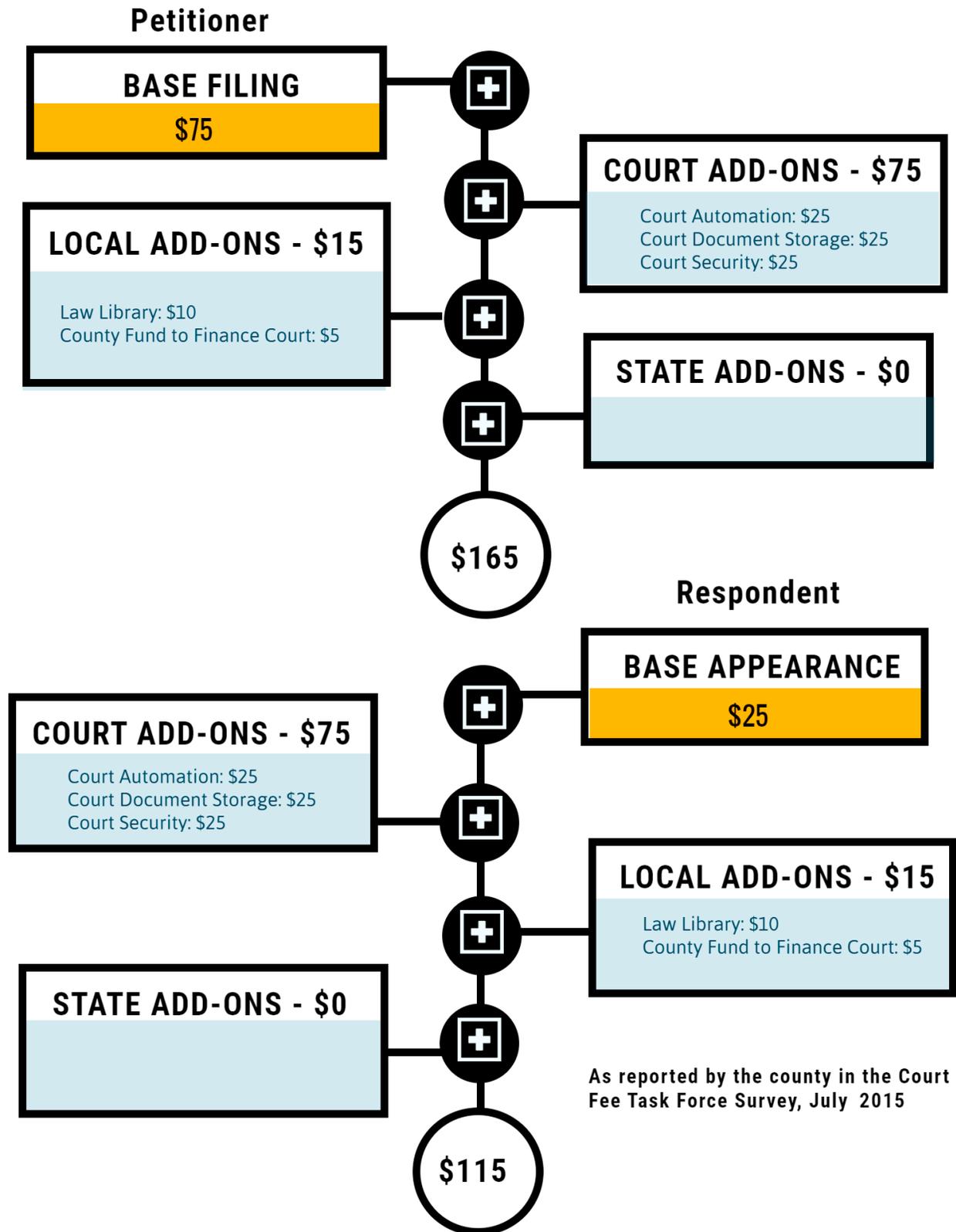


Figure 12

Dissolution of Marriage Assessments - Will County

Petitioner

BASE FILING
\$190

LOCAL ADD-ONS - \$48
Judicial Facilities: \$25
Law Library: \$13
County Fund to Finance Court: \$5
Neutral Site Custody Exchange: \$5

COURT ADD-ONS - \$55
Court Automation: \$15
Court Document Storage: \$15
Court Security: \$25

STATE ADD-ONS - \$8
Mandatory Arbitration: \$8

\$301

Respondent

BASE APPEARANCE
\$75

COURT ADD-ONS - \$55
Court Automation: \$15
Court Document Storage: \$15
Court Security: \$25

LOCAL ADD-ONS - \$48
Judicial Facilities: \$25
Law Library: \$13
Neutral Site Custody Exchange: \$5
County Fund to Finance Court: \$5

STATE ADD-ONS - \$8
Mandatory Arbitration: \$8

\$186

As reported by the county in the Court Fee Task Force Survey, July 2015

Figure 13

Dissolution of Marriage Assessments - Cook County

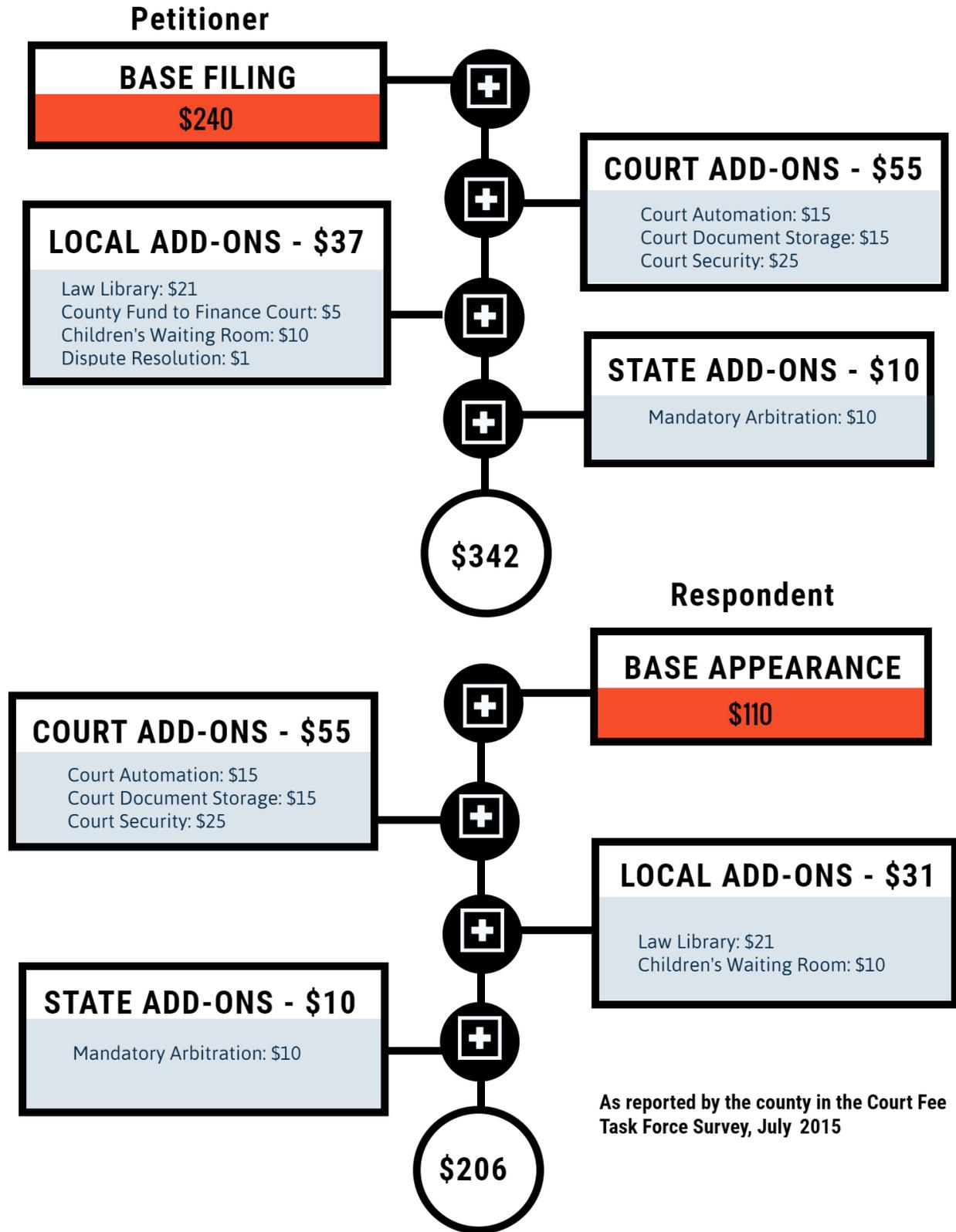


Figure 14

These examples are endemic of the landscape of civil assessments across Illinois. Figure 15 summarizes how the base filing and appearance fees in marriage dissolution cases vary from county to county, even before any of the court and local add-ons are thrown into the mix. The steps involved in the case, however, are the same in all counties (petition, service, response, financial investigation, trial). The judicial salaries are also the same. Yet we see huge disparities in assessments that are exacerbated as more counties use local add-on fees as a source of revenue.

2015 Fines and Fees County Survey
As Reported by Circuit Clerk's Office in July 2015

Civil Fees	Stat. Range	Cook	DeKalb	DuPage	Knox
Circuit Clerk Fee - Filing	\$10-\$240	\$22-\$240	\$10-\$150	\$15-\$190	\$10-\$75
Circuit Clerk Fee - Appearance	\$15-\$110	\$80-\$110	\$5-\$50	\$40-\$75	\$10-\$25
Court Automation Fee	\$1-\$25	\$15.00	\$25.00	\$15.00	\$25.00
Document Storage Fee	\$1-\$25	\$15.00	\$25.00	\$15.00	\$25.00
Court Fee	\$5	\$5.00	\$5.00	\$5.00	\$5.00
Court Security Fee	\$0-\$25	\$25.00	\$25.00	\$25.00	\$25.00
Law Library Fee	\$2-\$21	\$21.00	\$10.00	\$13.00	\$10.00
Mandatory Arbitration Fee	\$8 or \$10	\$10.00	\$0.00	\$8.00	\$0.00
Neutral Custody Fee	\$1-\$10	\$0.00	\$8.00	\$8.00	\$0.00
Children's Waiting Room Fee	\$0-\$10	\$10.00	\$10.00	\$3.00	\$0.00
Dispute Resolution Fee	\$1	\$1.00	\$0.00	\$0.00	\$0.00
Misc. Fees Specific to County				\$8.00	\$5.00
Total Filing Fee		\$124-\$342	\$118-\$258	\$115-\$268	\$100-\$165
Total Appearance Fee		\$176-\$206	\$108-\$153	\$140-\$175	\$100-\$115
Jury Demand Fee	\$12.50-\$230	\$12.50\$230	\$12.50\$212.50	\$12.50\$212.50	\$12.50\$210
Alt Juror Fee		\$0.00	\$25.00	\$0.00	\$0 or \$250

Civil Fees	Stat. Range	Macoupin	Madison	McHenry	McLean
Circuit Clerk Fee - Filing	\$10-\$240	\$15-\$131	\$10-\$160	\$10-\$160	\$10-\$160
Circuit Clerk Fee - Appearance	\$15-\$110	\$35-\$66	\$20-\$60	\$30-\$60	\$30-\$60
Court Automation Fee	\$1-\$25	\$5-\$15	\$5.00	\$15.00	\$20.00
Document Storage Fee	\$1-\$25	\$5-\$15	\$15.00	\$15.00	\$15.00
Court Fee	\$5	\$5.00	\$5.00	\$5.00	\$5.00
Court Security Fee	\$0-\$25	\$5-\$25	\$15.00	\$20.00	\$25.00
Law Library Fee	\$2-\$21	\$5-\$19	\$6.00	\$18.00	\$10.00
Mandatory Arbitration Fee	\$8 or \$10	\$0.00	\$8.00	\$8.00	\$8.00
Neutral Custody Fee	\$1-\$10	\$0.00	\$2.00	\$0.00	\$8.00
Children's Waiting Room Fee	\$0-\$10	\$0.00	\$0.00	\$0.00	\$5.00
Dispute Resolution Fee	\$1	\$0.00	\$0.00	\$0.00	\$0.00
Misc. Fees Specific to County			\$5.00		\$5.00
Total Filing Fee		\$55-\$210	\$66-\$216	\$91-\$241	\$106-\$256
Total Appearance Fee		\$55-\$110	\$76-\$116	\$106-\$136	\$126-\$156
Jury Demand Fee	\$12.50-\$230	\$12.50\$212.50	\$12.50\$212.50	\$12.50\$212.50	\$12.50\$212.50
Alt Juror Fee		\$0.00	\$0.00	\$0.00	\$0 or \$35

Civil Fees	Stat. Range	Pope	St. Clair	Will
Circuit Clerk Fee - Filing	\$10-\$240	\$10-\$160	\$10-\$160	\$15-\$190
Circuit Clerk Fee - Appearance	\$15-\$110	\$30-\$60	\$30-\$60	\$40-\$75
Court Automation Fee	\$1-\$25	\$15.00	\$25.00	\$15.00
Document Storage Fee	\$1-\$25	\$15.00	\$25.00	\$15.00
Court Fee	\$5	\$5.00	\$5.00	\$5.00
Court Security Fee	\$0-\$25	\$25.00	\$25.00	\$25.00
Law Library Fee	\$2-\$21	\$13.00	\$13.00	\$13.00
Mandatory Arbitration Fee	\$8 or \$10	\$0.00	\$8.00	\$8.00
Neutral Custody Fee	\$1-\$10	\$0.00	\$5.00	\$5.00
Children's Waiting Room Fee	\$0-\$10	\$0.00	\$0.00	\$0.00
Dispute Resolution Fee	\$1	\$1.00	\$0.00	\$0.00
Misc. Fees Specific to County			\$5.00	\$25.00
Total Filing Fee		\$84-\$234	\$116-\$266	\$126-\$301
Total Appearance Fee		\$98-\$128	\$136-\$166	\$151-\$186
Jury Demand Fee	\$12.50-\$230	\$12.50\$212.50	\$12.50\$106.25	\$12.50\$212.50
Alt Juror Fee		\$0.00	\$0.00	\$0 or \$2.50

Figure 15

Criminal/Traffic Proceedings

This large variation between counties regarding the amount of assessments imposed in the same kind of cases is not unique to civil actions and, in fact, is more pronounced in criminal cases. As in the civil context, counties have some discretion over which charges to assess, and the size of those charges. This local discretion precludes uniformity and means that criminal defendants facing the exact same charges can have very different assessments imposed on them, depending on the county in which the case is heard.

Figures 16-18 illustrate this variability. Figures 17 and 18 examine the amount of assessments that were recently imposed in Macoupin and McLean Counties, respectively, with respect to defendants who received a \$150 fine for driving under the influence of alcohol. Both counties started with a base fee of \$75. Both counties charged the defendants fees to subsidize the cost of court automation, document storage, and court security. Both counties also charged the defendants a fee for the state's attorney's office that prosecuted the case. The substantial discrepancy between the total assessments imposed by the two counties relates to the local and state add-on fees. While Macoupin County added seven state and local fees totaling \$197, McLean County added 15 state and local fees totaling \$1560. The \$75 base fee of the McLean County defendant thereby increased by more than 2,400% and that defendant paid nearly five times more than the Macoupin County defendant for the exact same offense.

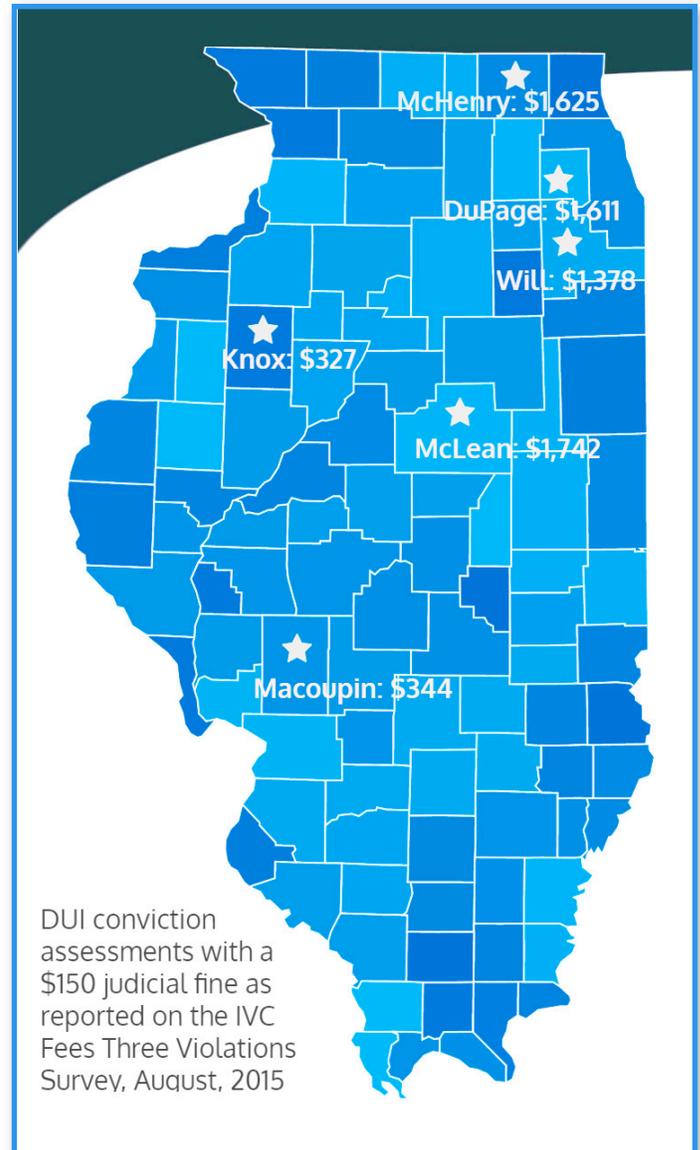


Figure 16

DUI Conviction Assessments - Macoupin County

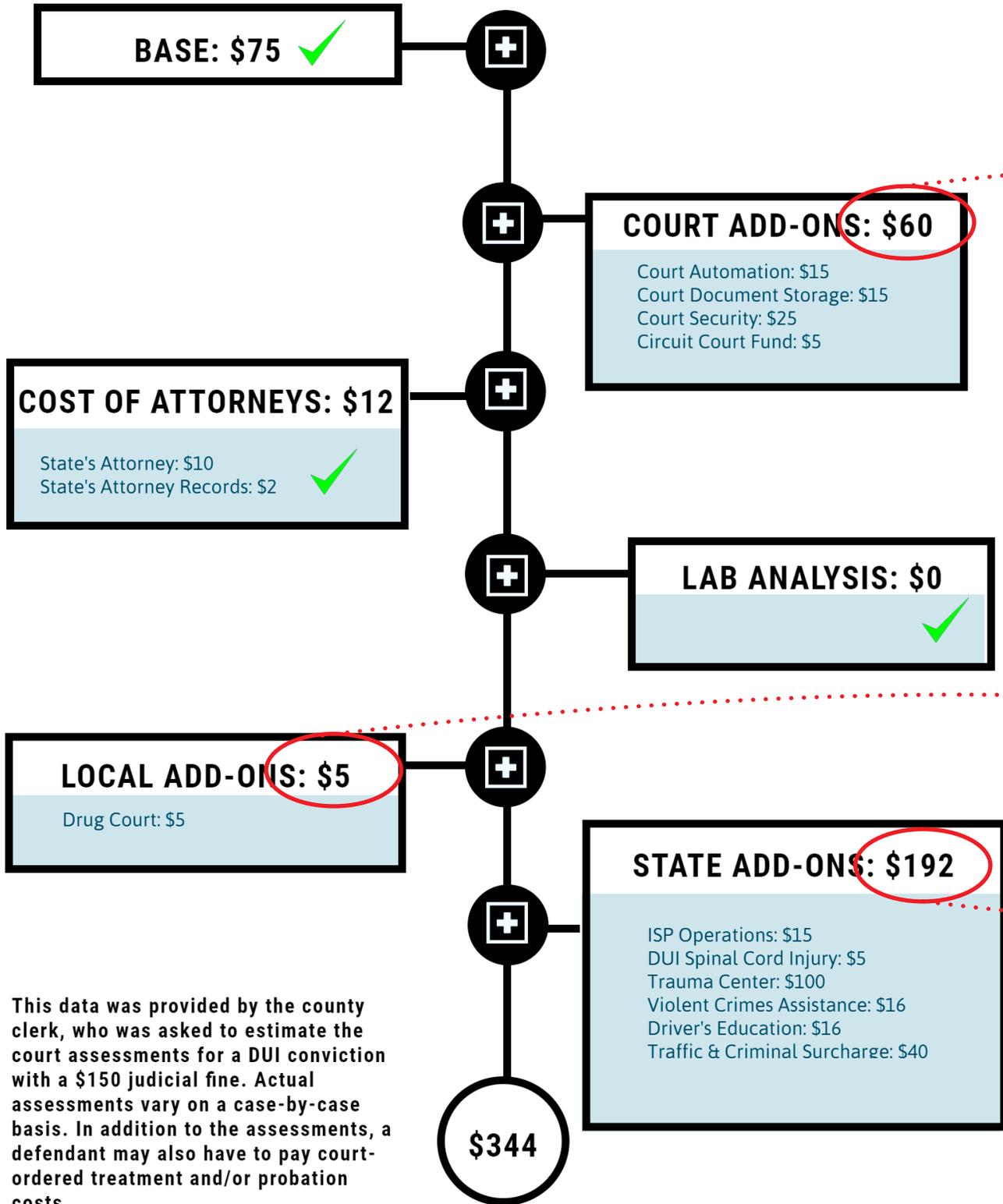
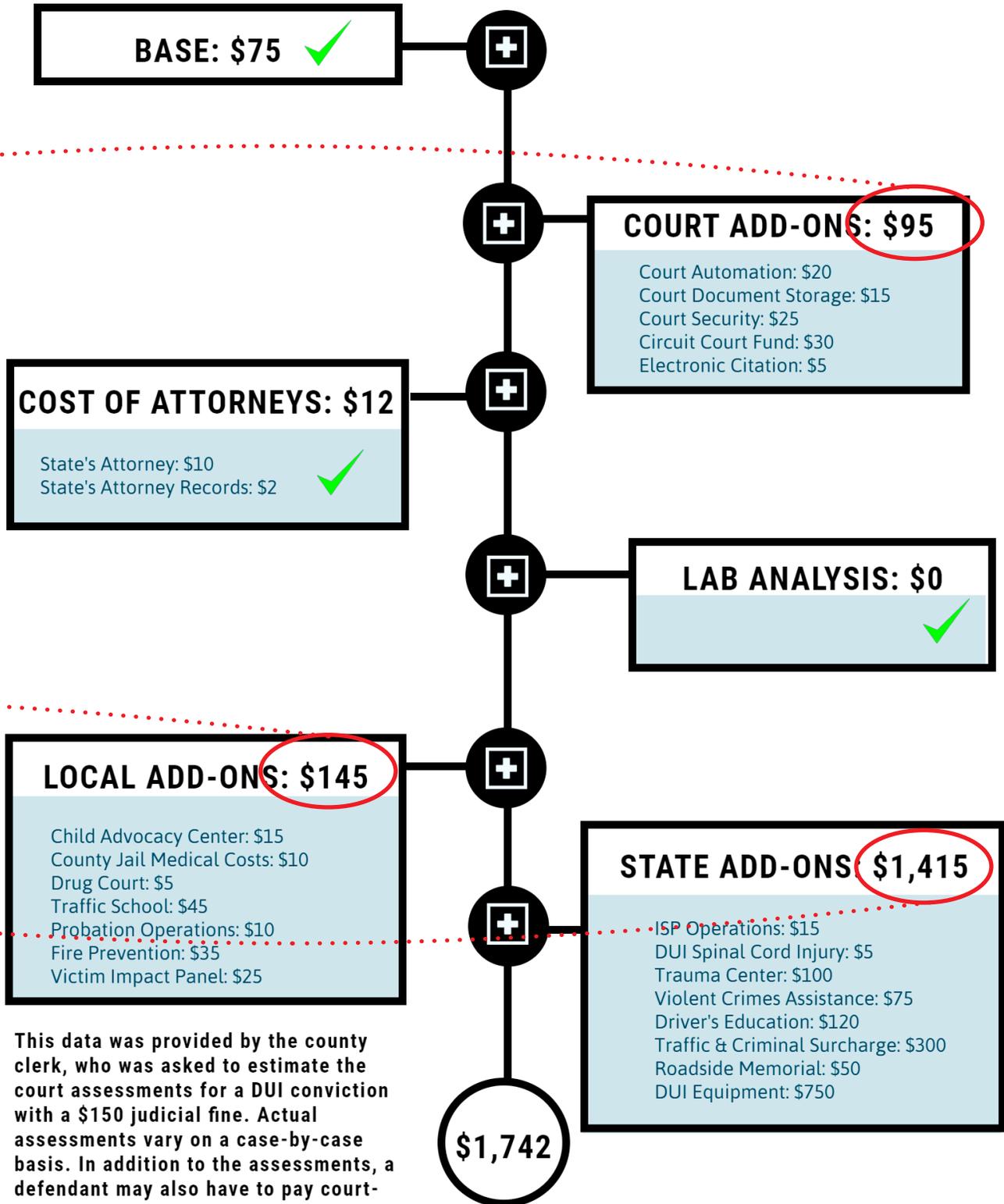


Figure 17

DUI Conviction Assessments - McLean County



This data was provided by the county clerk, who was asked to estimate the court assessments for a DUI conviction with a \$150 judicial fine. Actual assessments vary on a case-by-case basis. In addition to the assessments, a defendant may also have to pay court-ordered treatment and/or probation costs.

Figure 18

Finding #4: The cumulative impact of the assessments imposed on parties to civil lawsuits and defendants in criminal and traffic proceedings imposes severe and disproportionate impacts on low- and moderate-income Illinois residents.

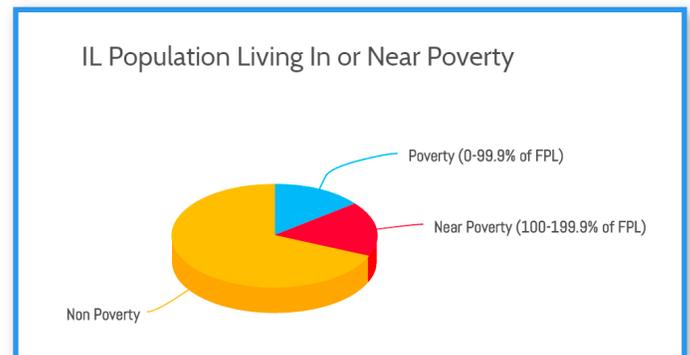
The rapid rise of court assessments has caused financial and other hardships which are disproportionately borne by modest and low-income litigants. In the criminal courts, where there is currently no formal process in place for waiving or reducing fees, an indigent defendant may be forced to decide between paying court debt or covering basic living expenses like rent and medical bills. In the case of civil litigation, high filing fees may force financially insecure litigants to opt out of participation in important civil cases altogether.

The 2016 Federal Poverty Guidelines set the poverty threshold at an annual income of \$11,880 for a family of one and \$24,300 for a family of four.³¹ In 2014, 14.4% of Illinois residents lived below the poverty line.³² Yet another 17.2% of the population, over 2 million individuals, lived between 100% and 200% of the federal poverty threshold.³³ Between 1997 and 2011, the share of working families in Illinois living at or below 200% of the federal poverty guideline increased by 5%, one of the largest increases in the nation.³⁴ The increased number of working poor can be seen in courthouses across the country on a daily basis as the number of litigants appearing without attorneys continues to rise.³⁵ These litigants, already struggling to navigate a complex and confusing legal system during times of crisis, often face hundreds of dollars in court fees simply to participate in the process.

Illinois has taken modest steps to address this growing problem. Under Illinois Supreme Court Rule 298 and ILCS 735 ILCS 5/5-105, civil courts will consider fee waiver applications from indigent civil litigants, defined as individuals receiving certain federal benefits or earning less than 125% of the federal



Figure 19



Nearly one-third of Illinois residents are living in or near poverty. 14.4% are living below poverty level, and 31.6% are living within 199% of the poverty level.

Figure 20

³¹ U.S. Department of Health and Human Services, *HHS Poverty Guidelines for 2016* (January 2016), available at <https://aspe.hhs.gov/poverty-guidelines>.

³² Social Impact Research Center, *Poor by Comparison: Report on Illinois Poverty* (January 2015), p.2; available at <http://www.ilpovertyreport.org/>.

³³ *Id.*

³⁴ The Working Poor Families Project, *Low-Income Working Families: The Growing Economic Gap*, p.6; available at http://www.workingpoorfamilies.org/wp-content/uploads/2013/01/Winter-2012_2013-WFPF-Data-Brief.pdf.

³⁵ An estimated 60% of civil litigants nationwide are self-represented. See generally, <http://www.srln.org/>.

poverty level set annually by the United States Department of Health and Human Services. While the civil fee waiver provision has been an important and much needed first step in promoting equal access to the courts, the current rule still excludes far too many people, including all criminal defendants (including those who would have qualified for a civil fee waiver) and the rapidly growing class of Illinois residents who can be described as the working poor. Many of those individuals and families earn too much to qualify for the extremely low poverty cutoffs used by most legal aid and pro bono programs, but earn too little to pay hefty court fees without suffering serious financial hardship.

In 2015, as exemplified in the discussion above, the initial filing fees for a dissolution of marriage case in Illinois ranged from \$165 in Knox County to \$342 in Cook County. For an individual living on only \$1,250 a month, for example, these court fees can present an insurmountable barrier to accessing the court system. Despite the obvious financial challenges, that same individual would not qualify for a fee waiver, a reduction in court costs, or for assistance from a legal aid organization or pro bono program that uses the standard 125% federal poverty level cutoff. Furthermore, while the poorest civil litigants currently receive some relief from the rising court fees, there is no analogous provision for criminal fee waivers. Rule 298 does not extend to indigent criminal defendants, who may qualify for free legal representation through the public defender's office but still find themselves hundreds or even thousands of dollars in debt at the conclusion of the case.

Criminal court fees can have the unintended and counterproductive consequence of burdening a criminal defendant's reentry into society and increasing the potential for recidivism.³⁶ Court-imposed fees impact credit scores, making it difficult for criminal defendants to rent or purchase homes. Unpaid fees also interfere with efforts to expunge or seal criminal records, which can in turn lead to termination from employment or additional hurdles that must be cleared to secure new employment. On top of that, a criminal defendant may risk suspension of their driver's license if they cannot afford to pay the fees, further burdening their ability to reintegrate into society and return to school or work. Without stable housing, employment, and transportation, a formerly incarcerated individual may return to criminal activity to cover their expenses, including crippling court debt.³⁷ Furthermore, these fees do not take into account the punitive criminal fines that may attach at the end of criminal litigation and create additional financial burdens.

A relatively small percentage of assessments imposed in criminal cases is ever collected. Compared to any revenue that they generate, the administrative burden that such assessments impose on court clerks is substantial because criminal cases are not closed if assessments have not been paid.

³⁶ U.S. Department of Health and Human Services, *HHS Poverty Guidelines for 2016* (January 2016), available at <https://aspe.hhs.gov/poverty-guidelines>.

³⁷ Social Impact Research Center, *Poor by Comparison: Report on Illinois Poverty* (January 2015), p.2; available at <http://www.ilpovertyreport.org/>.

³⁸ Center for Justice, *Criminal Justice Debt: A Barrier to Reentry*, 27-30 (2010), available at <http://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>.

VII. Core Principles

In developing proposed legislation and court rules to address the problems identified in the findings discussed in the preceding section of this Report, the Task Force was guided by the following core principles. The Task Force appreciates the tension between some of these principles and the realities of government, the state of the Illinois economy, and the difficulty of effecting change that in certain respects may require a culture shift. Accordingly, these core principles can be viewed as guideposts that the Task Force hopes will direct reasoned and constructive thinking towards renewed balance among competing interests bearing on the system of court assessments in our state.

1. **Role of Assessments in Funding the Courts.** Courts should be substantially funded from general government revenue sources. Court users may be required to pay reasonable assessments to offset a portion of the cost of the courts borne by the public-at-large.
2. **Relationship Between Assessments and Access to the Courts.** The amount of assessments should not impede access to the courts and should be waived, to the extent possible, for indigent litigants and the working poor.
3. **Transparency and Uniformity.** Assessments should be simple, easy to understand, and uniform to the extent possible.
4. **Relationship Between Assessments and Their Underlying Rationale.** Assessments should be directly related to the operation of the court system. Assessments imposed for a particular purpose should be limited to the types of court proceedings that are related to that purpose. Monies raised by assessments intended for a specific purpose should be used only for that purpose.
5. **Periodic Review.** The General Assembly should periodically review all assessments to determine if they should be adjusted or repealed.

VIII. Recommendations

Civil Proceedings

1. **The General Assembly should authorize an assessment schedule for civil cases that promotes affordability and transparency.**

The Task Force proposes simplifying and streamlining the current system by creating a new Court Clerk Assessment Act that replaces all statutory fees currently scattered throughout the Illinois Compiled Statutes. Set forth in Appendix A to this Report, the Act contains four assessment schedules, each with a maximum filing fee, appearance fee, and other authorized fees. The Supreme Court would assign each case type to one of the assessment schedules.

Each of the filing fees and appearance fees authorized under the new Act would be broken down into three components: the Court Fee; the County Fee; and the State Fee. The Act provides discretion to set the amount of each of those three fees, within the overall limits for the filing fee and appearance fee established by the Act for the applicable assessment schedule. The Act also provides discretion to allocate the Court Fee, the County Fee, and the State Fee among the different purposes authorized by the Act. In that way, assessments would generally no longer be earmarked by state law for special funds or projects, but would instead be collected akin to a block grant that would afford counties broader discretion regarding the purposes for which assessments are collected and the amount devoted to each of those purposes.

The Task Force recommends that the amounts set forth in the Act serve as maximums, rather than fixed amounts, thereby authorizing the counties to charge less if they wish to do so. While the Task Force appreciates that uniformity is an important goal, it also recognizes that affordability is an equally important one and cannot recommend requiring counties to charge more than they need for no reason other than consistency.

The proposed Court Clerk Assessment Act also includes some assessments – such as fees for copying court records, providing certified copies, and mailing documents – that are not limited to civil actions.

2. **The General Assembly and the Supreme Court should authorize amendments to the current civil fee waiver statute and related Supreme Court Rule to provide financial relief from assessments in civil cases to Illinois residents living in or near poverty.**

The Task Force proposes broadening the current fee waiver statute and related Supreme Court Rule by adding a sliding scale fee waiver based on income. Litigants whose income is 125% or less of the current poverty level, or who are otherwise eligible for fee waivers under existing law, would continue to be eligible for full waivers. Litigants whose income is between 125% and 200% of the poverty level would be eligible for waivers on a sliding scale ranging from 75% to 25%. This will extend financial protections already offered to indigent civil litigants to the working poor.

Clean and redlined versions of the proposed civil fee waiver statute, with the redlining identifying amendments to the current fee waiver statute, are contained in Appendix B to this Report. Clean and redlined versions of Supreme Court Rule 298, the rule concerning fee waivers in civil cases, are contained in Appendix C.

Fee waivers will not eliminate all of the financial burdens and other obstacles faced by litigants trying to participate fully in the justice system. Many litigants will still struggle to take time off from work, secure child care, and pay for transportation to and parking at the courthouse. However, waiving or reducing fees for the poorest litigants is a logical step forward in aspiring to ensure that all Illinois residents can access the court system in a fair and equitable manner, and that no one is forced to choose between being able to participate in court proceedings and pay their basic living expenses.

The Task Force also proposes expanding a judge's discretion to reconsider the fee waiver prior to the final disposition of the case if the judge has reason to believe the litigant was not entitled to the initial fee waiver or if there has been change in circumstances such that the litigant is able to pay fees going forward. Additionally, the Task Force proposes that the fee waiver expires after one year, but can be renewed upon a showing of continued eligibility.

Criminal/Traffic Proceedings

3. The General Assembly should authorize a uniform assessment schedule for criminal and traffic case types that is consistent throughout the state.

The Task Force proposes creating a new criminal assessment schedule system to promote uniformity, consistency, and a reasonable connection between the assessment and the crime. Contained in Appendix D to this Report, the proposed Criminal/Traffic Assessment Act would codify in one statute all of the court fees and fines imposed at the conclusion of those proceedings. Every offense would be assigned to a particular assessment schedule. Every court in the state would follow the same schedule.

This proposal would make the process of calculating fees and fines more transparent – all of the costs would be clearly explained in one place rather than the current piecemeal system where they are buried in dozens of pieces of legislation. This would also create statewide consistency.

Additionally, the Task Force recommends eliminating some currently authorized court assessments to reduce the overall financial burden imposed on defendants and ensure that existing assessments have an appropriate nexus to the crime so that a defendant is not paying for something unrelated to the offense.

4. The General Assembly and the Supreme Court should authorize the waiver or reduction of assessments, but not fines, imposed on criminal defendants living in or near poverty.

The Task Force proposes creation of a criminal assessment waiver statute with a sliding scale that would be similar to the proposed amendment to the civil fee waiver statute. The statute would be complemented by a Supreme Court Rule analogous to the rule that implements the civil fee waiver statute. The proposed criminal assessment waiver statute and Supreme Court Rule 404 are contained in Appendices E and F, respectively, of this Report.

The proposed statute and rule would extend the financial protections offered to indigent civil litigants to their counterparts in the criminal justice system. The criminal assessment waiver would cover all assessments authorized by the new Criminal/Traffic Assessment Act, but would not cover punitive fines or restitution ordered by a judge. This would ensure that criminal defendants still face meaningful punishment if convicted. It would also encourage judges to tailor punishments to more carefully fit the crime by using their discretionary powers to assess fines based on the nature of the crime committed, rather than simply letting court assessments act as punitive fines.

While criminal defendants should face meaningful punishment for committing a crime, it is unjust and unwise to burden indigent criminal defendants with court assessments that are beyond their ability to pay and that create a disproportionate and counterproductive barrier to their reentry into society. Rather than levy such assessments, which also impose administrative burdens on court clerks that are unwarranted by the potential amounts to be collected, it is preferable to allow judges to grant waivers. Such waivers would facilitate judges' ability to impose fines (that, unlike fees, are designed to punish) at amounts that are commensurate with the crime. Moreover, unlike assessments, in appropriate cases judges can authorize fines to be worked off through community service or similar programs.

5. **The General Assembly and the Supreme Court should modify the process by which minor traffic offense fines are calculated under Supreme Court Rule 529.**

Current Supreme Court Rule 529 provides that all fines, penalties, and costs are to be set equal to bail upon a plea of guilty to a minor traffic violation not requiring a court appearance. Since the early 1980s, the General Assembly has enacted many new user fees and surcharges on minor traffic violations. This has reduced the amount of revenue for counties and local law enforcement agencies since the total ticket fines, penalties, and costs are fixed (tied to bail), but the ticket revenue is now shared with many additional public bodies. The Supreme Court has responded by increasing bail, which helps with counties and local law enforcement agencies, but creates tension with the objective of setting bail at the minimum amount necessary to ensure the defendant's appearance at trial.

To address this tension, the Task Force proposes severing the link between the amount of bail and the fine in minor traffic cases. Instead, Schedule 12 of the proposed Criminal/Traffic Assessment Act (Appx. D hereto), sets the amount of fines, penalties and costs at a uniform amount of \$150. Related proposed revisions to Supreme Court Rule 529 are contained in Appendix G.

General Recommendations

6. **The Illinois General Assembly should routinely consult a checklist of important considerations before proposing new assessments, and should periodically consult the checklist in reviewing existing assessments.**

To support the consolidation of all assessments in a single act and in an effort to alleviate some of the confusion in implementing certain assessments, the Task Force proposes a Checklist for Review of New Assessment Legislation for the General Assembly to consult before creating new assessments. Contained in Appendix H to this Report, the checklist is intended to guide the General Assembly in ensuring that: any new assessment is added to the correct part of the statute; implementation dates are consistent; the statute clearly describes the recipients of the new assessment; the triggering event for collecting the assessment is clear; and the statute clearly states whether the new assessment impacts the total value of a schedule or whether it modifies distribution of the existing amount.

IX. Conclusion

This report documents pervasive and fundamental problems with the imposition of court assessments in judicial proceedings in our state. Implementation of the recommendations developed by the Task Force is urgently needed to address the barriers to access to justice and excessive financial burdens associated with court assessments that are undermining the court system's ability to provide fair and equal justice for all.

Respectfully submitted,

STATUTORY COURT FEE TASK FORCE

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APPENDIX

Appendix A – Proposed Court Clerk Assessment Act

Proposed Court Clerk Assessment Act, 705 ILCS 105/27.1

(This Act replaces the provisions of the Clerk of Courts Act that authorize fees for the services performed by clerks of the circuit court described in this statute)

Sec. 27.1. Notwithstanding any other provision of law, all fees charged by the clerks of the circuit court for the services described in this Section shall be established, collected, and disbursed in accordance with this Section. All such fees shall be paid in advance and disbursed by each clerk on a monthly basis. Unless otherwise specified in this Section, the amount of a fee shall be determined by ordinance or resolution of the county board and remitted to the County Treasurer to be used for purposes related to the operation of the court system in the county.

(a) Civil Cases.

The fee for filing a complaint, petition, or other pleading initiating a civil action shall be governed by one of the following schedules in accordance with case categories established by the Supreme Court.

(1) Schedule 1 – not to exceed a total of \$280.00

The fees collected from this schedule shall be disbursed as follows:

- A. The clerk shall retain a sum, in an amount not to exceed \$45.00 determined by the clerk with the approval of the Supreme Court, to be used for court automation, court document storage, and administrative purposes.
- B. The clerk shall remit up to \$12.00 to the State Treasurer with instructions to deposit the appropriate amounts into the following funds:
 - i. Up to \$10.00, as specified by the Supreme Court in relation to its authorization for a county to utilize mandatory arbitration, to the Mandatory Arbitration Fund; and
 - ii. \$2.00 to the Access to Justice Fund.
- C. The clerk shall remit a sum to the County Treasurer, in an amount not to exceed \$223.00 specified by ordinance or resolution passed by the county board, for purposes related to the operation of the court system in the county.

(2) Schedule 2 – not to exceed a total of \$180.00

The fees collected from this schedule shall be disbursed as follows:

- A. The clerk shall retain a sum, in an amount not to exceed \$45.00 determined by the clerk with the approval of the Supreme Court, to be used for court automation, court document storage, and administrative purposes.
- B. The clerk shall remit up to \$12.00 to the State Treasurer with instructions to deposit the appropriate amounts into the following funds:
 - i. Up to \$10.00, as specified by the Supreme Court in relation to its authorization for a county to utilize mandatory arbitration, to the Mandatory Arbitration Fund; and
 - ii. \$2.00 to the Access to Justice Fund.
- C. The clerk shall remit a sum to the County Treasurer, in an amount not to exceed \$123.00 specified by ordinance or resolution passed by the county board, for purposes related to the operation of the court system in the county.

(3) Schedule 3 – not to exceed a total of \$80.00

The fees collected from this schedule shall be disbursed as follows:

- A. The clerk shall retain a sum, in an amount not to exceed \$22.00 determined by the clerk with the approval of the Supreme Court, to be used for court automation, court document storage, and administrative purposes.
- B. The clerk shall remit \$2.00 to the State Treasurer for deposit into the Access to Justice Fund.
- C. The clerk shall remit a sum to the County Treasurer, in an amount not to exceed \$56.00 specified by ordinance or resolution passed by the county board, for purposes related to the operation of the court system in the county.

(4) Schedule 4 - \$0.00

(b) Appearance.

The fee for filing an appearance in a civil action shall be governed by one of the following schedules in accordance with case categories established by the Supreme Court.

(1) Schedule 1 – not to exceed a total of \$140.00

The fees collected from this schedule shall be disbursed as follows:

- A. The clerk shall retain a sum, in an amount up to \$28.00 determined by the clerk with the approval of the Supreme Court, to be used for court automation, court document storage, and administrative purposes.
- B. The clerk shall remit up to \$12.00 to the State Treasurer with instructions for the Treasurer to deposit the appropriate amounts into the following funds:
 - i. Up to \$10.00, as specified by the Supreme Court in relation to its authorization for a county to utilize mandatory arbitration; and
 - ii. \$2.00 to the Access to Justice Fund.
- C. The clerk shall remit a sum to the County Treasurer, in an amount up to \$100.00 specified by ordinance or resolution passed by the county board, for purposes related to the operation of the court system in the county.

(2) Schedule 2 – not to exceed a total of \$40.00

The fees collected from this schedule shall be disbursed as follows:

- A. The clerk shall retain a sum, in an amount up to \$10.00 determined by the clerk with the approval of the Supreme Court, to be used for court automation, court document storage, and administrative purposes.
- B. The clerk shall remit a sum to the County Treasurer, in an amount up to \$30.00 specified by ordinance or resolution passed by the county board, for purposes related to the operation of the court system in the county.

(3) Schedule 3 - \$0.00

(c) Counterclaim or Third-Party Complaint.

When any defendant files a counterclaim or third-party complaint as part of the defendant's answer or otherwise, the defendant shall pay a filing fee for each counterclaim or third-party complaint in an amount equal to the filing fee the defendant would have had to pay had the defendant brought a separate action for the relief sought

in the counterclaim or third-party complaint, less the amount of the appearance fee, if any, that the defendant has already paid in the action in which the counterclaim or third-party complaint is filed.

(d) Alias Summons.

There shall be a fee not to exceed \$5.00 for each alias summons or citation issued by the clerk.

(e) Jury Services

The clerk shall be entitled to receive, in addition to other fees allowed by law, a sum not to exceed \$212.50, as a fee for the services of a jury in every civil action not quasi-criminal in its nature and not a proceeding for the exercise of the right of eminent domain and in every other action wherein the right of trial by jury is or may be given by law. The jury fee shall be paid by the party demanding a jury at the time of filing the jury demand. If the fee is not paid by either party, no jury shall be called in the action or proceeding, and the same shall be tried by the court without a jury.

(f) Change of Venue.

In connection with a change of venue:

(1) The clerk of the jurisdiction from which the case is transferred may charge a fee, not to exceed \$40.00, for the preparation and certification of the record; and

(2) The clerk of the jurisdiction to which the case is transferred may charge the same filing fee as if it were the commencement of a new suit.

(g) Petition to Vacate or Modify.

(1) In a proceeding involving a petition to vacate or modify any final judgment or order filed within 30 days after the judgment or order was entered – except for a forcible entry and detainer case, small claims case, petition to reopen an estate, petition to modify, terminate, or enforce a judgment or order for child or spousal support, or petition to modify, suspend, or terminate an order for withholding – the fee shall not exceed \$50.00.

(2) In a proceeding involving a petition to vacate or modify any final judgment or order filed more than 30 days after the judgment or order was entered – except for a petition to modify, terminate, or enforce a judgment or order for child or spousal support, or petition to modify, suspend, or terminate an order for withholding – the fee shall not exceed \$75.00.

(3) In a proceeding involving a motion to vacate or amend a final order, motion to vacate an *ex parte* judgment, judgment of forfeiture, or “failure to appear” or “failure to comply” notices sent to the Secretary of State, the fee shall equal \$40.00.

(h) Appeals Preparation.

The fee for preparation of a record on appeal shall be based on the number of pages, as follows:

(1) If the record contains less than 100 pages, the fee shall not exceed \$50.00;

(2) If the record contains between 100 and 200 pages, the fee shall not exceed \$100.00; and

(3) If the record contains more than 200 pages, there may be an additional fee not to exceed 25 cents per page.

(i) Remands.

In any cases remanded to the Circuit Court from the Supreme Court or the Appellate Court for a new trial, the clerk shall reinstate the case with either its original number or a new number. The Clerk shall not charge any new or additional fee for the reinstatement. Upon reinstatement the Clerk shall advise the parties of the

reinstatement. Parties shall have the same right to a jury trial on remand and reinstatement that they had before the appeal, and no additional or new fee or charge shall be made for a jury trial after remand.

(j) Garnishment, Wage Deduction, and Citation.

In garnishment affidavit, wage deduction affidavit, and citation petition proceedings, if the amount in controversy in the proceeding:

- (1) Does not exceed \$1,000.00, the fee may not exceed \$15.00;
- (2) Is between \$1,000.01 and \$5,000.00, the fee may not exceed \$30.00; and
- (3) Exceeds \$5,000.00, the fee may not exceed \$50.00.

(k) Collections.

(1) For all collections made of others, except the State and county and except in maintenance or child support cases, the clerk may collect a fee of up to 2.5% of the amount collected and turned over.

(2) In child support and maintenance cases, the clerk may collect an annual fee of up to \$36.00 from the person making payment for maintaining child support records and the processing of support orders to the State of Illinois KIDS system and the recording of payments issued by the State Disbursement Unit for the official record of the Court. This fee shall be in addition to and separate from amounts ordered to be paid as maintenance or child support and shall be deposited into a Separate Maintenance and Child Support Collection Fund, of which the clerk shall be the custodian, *ex-officio*, to be used by the clerk to maintain child support orders and record all payments issued by the State Disbursement Unit for the official record of the Court. The clerk may recover from the person making the maintenance or child support payment any additional cost incurred in the collection of this annual fee.

(3) The clerk shall also be entitled to a fee of \$5.00 for certifications made to the Secretary of State as provided in Section 7-703 of the Family Financial Responsibility Law and these fees shall also be deposited into the Separate Maintenance and Child Support Collection Fund.

(l) Mailing.

The fee for the clerk mailing documents shall not exceed \$10.00 plus the cost of postage.

(m) Certified Copies.

The fee for each certified copy of a judgment, after the first copy, shall not exceed \$10.00.

(n) Certification, Authentication, and Reproduction.

(1) The fee for each certification or authentication for taking the acknowledgment of a deed or other instrument in writing with the seal of office shall not exceed \$6.00.

(2) The fee for reproduction of any document contained in the clerk's files shall not exceed:

- A. \$2.00 for the first page;
- B. 50 cents per page for the next 19 pages; and
- C. 25 cents per page for all additional pages.

(o) Record Search.

For each record search, within a division or municipal district, the clerk shall be entitled to a search fee not to exceed \$6.00 for each year searched.

(p) Hard Copy

For each page of hard copy print output, when case records are maintained on an automated medium, the clerk shall be entitled to a fee not to exceed \$6.00.

(q) Index Inquiry and Other Records.

No fee shall be charged for a single plaintiff/defendant index inquiry or single case record inquiry when this request is made in person and the records are maintained in a current automated medium, and when no hard copy print output is requested. The fees to be charged for management records, multiple case records, and multiple journal records may be specified by the Chief Judge pursuant to the guidelines for access and dissemination of information approved by the Supreme Court.

(r) Performing a marriage.

There shall be a \$10.00 fee for performing a marriage in court.

(s) Voluntary Assignment.

For filing each deed of voluntary assignment, a fee not to exceed \$20.00; for recording the same, a fee not to exceed 50 cents for each 100 words. Exceptions filed to claims presented to an assignee of a debtor who has made a voluntary assignment for the benefit of creditors shall be considered and treated, for the purpose of taxing costs therein, as actions in which the party or parties filing the exceptions shall be considered as party or parties plaintiff, and the claimant or claimants as party or parties defendant, and those parties respectively shall pay to the clerk the same fees as provided by this Section to be paid in other actions.

(t) Expungement Petition.

The clerk shall be entitled to receive a fee not to exceed \$60.00 for each expungement petition filed and an additional fee not to exceed \$4.00 for each certified copy of an order to expunge arrest records.

(u) Transcripts of Judgment.

For the filing of a transcript of judgment, the clerk shall be entitled to the same fee as if it were the commencement of a new suit.

(v) Probate filings.

(1) For each account (other than one final account) filed in the estate of a decedent, or ward, the fee shall not exceed \$25.00.

(2) For filing a claim in an estate when the amount claimed is between \$150.00 and \$500.00, the fee shall not exceed \$25.00; when the amount claimed is between \$500.01 and \$10,000.00, the fee shall not exceed \$40.00; and when the amount claimed is more than \$10,000.00, the fee shall not exceed \$60.00; provided that the court in allowing a claim may add to the amount allowed the filing fee paid by the claimant.

(3) For filing in an estate a claim, petition, or supplemental proceeding based upon an action seeking equitable relief including the construction or contest of a will, enforcement of a contract to make a will, and proceedings involving testamentary trusts or the appointment of testamentary trustees, the fee shall not exceed \$60.00.

(4) For filing in an estate (i) the appearance of any person for the purpose of consent or (ii) the appearance of an executor, administrator, administrator to collect, guardian, guardian ad litem, or special administrator, there shall be no fee.

(5) For each jury demand, the fee shall not exceed \$137.50.

(6) For each certified copy of letters of office, of court order or other certification, the fee shall not exceed \$2.00 per page.

(7) For each exemplification, the fee shall not exceed \$2.00, plus the fee for certification.

(8) The executor, administrator, guardian, petitioner, or other interested person or his or her attorney shall pay the cost of publication by the clerk directly to the newspaper.

(9) The person on whose behalf a charge is incurred for witness, court reporter, appraiser, or other miscellaneous fee shall pay the same directly to the person entitled thereto.

(10) The executor, administrator, guardian, petitioner, or other interested person or his or her attorney shall pay to the clerk all postage charges incurred by the clerk in mailing petitions, orders, notices, or other documents pursuant to the provisions of the Probate Act of 1975.

(w) Corrections of Numbers.

For correction of the case number, case title, or attorney computer identification number, if required by rule of court, on any document filed in the clerk's office, to be charged against the party that filed the document, the fee shall not exceed \$25.00.

(x) Miscellaneous.

(1) Interest earned on any fees collected by the clerk shall be turned over to the county general fund as an earning of the office.

(2) For any check, draft, or other bank instrument returned to the clerk for non-sufficient funds, account closed, or payment stopped, there shall be a fee of \$25.00.

(y) Other Fees.

The clerk of the circuit court may provide services in connection with the operation of the clerk's office, other than those services mentioned in this Section, as may be requested by the public and agreed to by the clerk and approved by the Chief Judge. Any charges for such additional services shall be as agreed to between the clerk and the party making the request and approved by the Chief Judge. Nothing in this subsection shall be construed to require any clerk to provide any service not otherwise required by law.

(z) Exceptions.

(1) No fee authorized by this Section shall apply to:

A. Police departments or other law enforcement agencies. In this Section, "law enforcement agency" means an agency of the State or a unit of local government which is vested by law or ordinance with the duty to maintain public order and to enforce criminal laws or ordinances. "Law enforcement agency" also means the Attorney General or any state's attorney;

B. Any unit of local government or school district;

C. Any action instituted under subsection (b) of Section 11-31-1 of the Illinois Municipal Code by a private owner or tenant of real property within 1200 feet of a dangerous or unsafe building seeking an order compelling the owner or owners of the building to take any of the actions authorized under that subsection;

D. Any commitment petition or petition for an order authorizing the administration of psychotropic medication or electroconvulsive therapy under the Mental Health and Developmental Disabilities Code;

E. A petitioner in any order of protection proceeding including, but not limited to, filing, modifying, withdrawing, certifying, or photocopying petitions for orders of protection, or for issuing alias summons, or for any related filing service, certifying, modifying, vacating, or photocopying any orders of protection; or

F. Proceedings for the appointment of a confidential intermediary under the Adoption Act.

(2) No fee other than the filing fee contained in the applicable schedule in subsection (a) shall be charged to any person in connection with an adoption proceeding.

(3) Upon good cause shown, the court may waive any fees associated with a special needs adoption. The term “special needs adoption” shall have the meaning ascribed to it by the Illinois Department of Children and Family Services.

Appendix B – Proposed Amended Civil Assessment Waiver Statute

Proposed Amendments to Civil Assessment Waiver Statute, 735 ILCS 5/5-105

Clean Version

Sec. 5-105. Leave to sue or defend as an indigent person.

(a) As used in this Section:

(1) “Assessments, costs, and charges” means payments imposed on a party in connection with the prosecution or defense of a civil action, including, but not limited to: assessment set forth in 705 ILCS 105/27.1; fees for service of process and other papers served either within or outside this State, including service by publication pursuant to Section 2-206 of this Code and publication of necessary legal notices; motion fees; charges for participation in, or attendance at, any mandatory process or procedure including, but not limited to, conciliation, mediation, arbitration, counseling, evaluation, “Children First”, “Focus on Children” or similar programs; fees for supplementary proceedings; charges for translation services; guardian ad litem fees; and all other processes and procedures deemed by the court to be necessary to commence, prosecute, defend, or enforce relief in a civil action.

(2) “Indigent person” means any person who meets one or more of the following criteria:

(i) He or she is receiving assistance under one or more of the following means based governmental public benefits programs: Supplemental Security Income (SSI), Aid to the Aged, Blind and Disabled (AABD), Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), General Assistance, Transitional Assistance, or State Children and Family Assistance.

(ii) His or her available income is 125% or less of the current poverty level, unless the applicant’s assets that are not exempt under Part 9 or 10 of Article XII of this Code are of a nature and value that the court determines that the applicant is able to pay the assessments, costs, and charges.

(iii) He or she is, in the discretion of the court, unable to proceed in an action without payment of assessments, costs, and charges and whose payment of those assessments, costs, and charges would result in substantial hardship to the person or his or her family.

(iv) He or she is an indigent person pursuant to Section 5-105.5 of this Code.

(3) “Poverty level” means the current poverty level as established by the United States Department of Health and Human Services.

(b) On the application of any person, before or after the commencement of an action:

(1) If the court finds that the applicant is an indigent person, the applicant shall be granted a full assessment waiver entitling him or her to sue or defend the action without payment of any assessments, costs, or charges.

(2) If the court finds that the applicant satisfies any of the criteria contained in subsections (i), (ii), or (iii), the applicant shall be granted a partial assessment waiver entitling him or her to sue or defend the action upon payment of the applicable percentage of the assessments, costs, and charges of the action, as follows:

(i) 75% of all assessments, costs, and charges shall be waived if the applicant’s available income is between 125% and 150% of the poverty level, unless the applicant’s assets that are not exempt under Part 9 or 10 of Article XII of this Code are such that the applicant is able, without undue hardship, to pay a greater portion of such assessments, costs, and charges;

(ii) 50% of all assessments, costs, and charges shall be waived if the applicant’s available income is between 150.1% and 175% of the poverty level, unless the applicant’s assets that are not exempt under Part 9 or 10 of Article XII of this Code are such that the applicant is able, without undue hardship, to pay a greater portion of such assessments, costs, and charges; and

(iii) 25% of all assessments, costs and charges shall be waived if his or her available income is between 175.1% and 200% of the current poverty level as established by the United States Department of Health and Human Services, unless the applicant's assets that are not exempt under Part 9 or 10 of Article XII of this Code are such that the applicant is able, without undue hardship, to pay a greater portion of such assessments, costs, and charges.

(c) An Application for Waiver of Court Assessments shall be in writing and signed by the applicant, or, if the applicant is a minor or an incompetent adult, by another person having knowledge of the facts. The contents of the Application for Waiver of Court Assessments, and the procedure for decision of such Applications, shall be established by Supreme Court Rule 298. The court shall provide, through the office of the clerk of the court, the Application for Waiver of Court Assessments to any person seeking to sue or defend an action who indicates an inability to pay the assessments, costs, and charges of the action. The clerk of the court shall post in a conspicuous place in the courthouse a notice no smaller than 8.5 x 11 inches, using no smaller than 30-point typeface printed in English and in Spanish, advising the public that they may ask the court for permission to sue or defend a civil action without payment of assessments, costs, and charges. The notice shall be substantially as follows:

“If you are unable to pay the assessments, costs, and charges of an action you may ask the court to allow you to proceed without paying them. Ask the clerk of the court for forms.”

(d) The clerk of the court shall not refuse to accept and file any complaint, appearance, or other paper presented by the applicant if accompanied by an Application for Waiver of Court Assessments, and those papers shall be considered filed on the date the application is presented. If the application is denied or a partial assessment waiver is granted, the order shall state a date certain by which the necessary assessments, costs, and charges must be paid. For good cause shown, the court may allow an applicant who receives a partial assessment waiver to defer payment of assessments, costs, and charges, make installment payments, or make payment upon reasonable terms and conditions stated in the order. The court may dismiss the claims or strike the defenses of any party failing to pay the assessments, costs, or charges within the time and in the manner ordered by the court. (e) A judicial ruling on an Application for Waiver of Court Assessments shall not be considered to constitute a decision of a substantial issue in the case under 735 ILCS 5/1001.

(f) The order granting a full or partial assessment waiver shall expire after one year. Upon expiration of the assessment waiver, or a reasonable period of time before expiration, the party whose assessments, costs, and charges were previously waived may file another Application for Waiver of Court Assessments and the court shall consider the Application in accordance with the applicable Supreme Court Rule.

(g) If, before or at the time of final disposition of the case, the court obtains information, including information from the court file, suggesting that a person whose assessments, costs, and charges were initially waived was not entitled to a full or partial assessment waiver at the time of application the court may require the person to appear at a court hearing by giving the applicant no less than 10 days' written notice of the hearing and the specific reasons why the initial assessment waiver might be reconsidered. The court may require the applicant to provide reasonably available evidence, including financial information, to support his or her eligibility for the assessment waiver, but shall not require submission of information that is unrelated to the criteria for eligibility and application requirements set forth in subsections (b)(1) or (b)(2), above. If the court finds that the person was not initially entitled to any assessment waiver, the person shall pay all assessments, costs and charges relating to the civil action including any previously waived assessments, costs, and charges. The order may state terms of payment in accordance with subsection (e). The court shall not conduct a hearing pursuant to this subsection more often than once every six months.

(h) If, before or at the time of final disposition of the case, the court obtains information, including information from the court file, suggesting that a person who received a full or partial assessment waiver has experienced a change in financial condition so that he or she is no longer eligible for that waiver, the court may require the person to appear at a court hearing by giving the applicant no less than 10 days' written notice of the hearing and the specific reasons why the assessment waiver might be reconsidered. The court may require the person to provide reasonably

available evidence, including financial information, to support his or her continued eligibility for the assessment waiver, but shall not require submission of information that is unrelated to the criteria for eligibility and application requirements set forth in subsections (b)(1) and (b)(2), above. If the court enters an order finding that the person is no longer entitled to an assessment waiver, or is henceforth entitled to a partial assessment waiver different than that which they had previously received, the person shall pay the requisite assessments, costs, and charges from the date of the order going forward. The order may state terms of payment in accordance with subsection (e). The court shall not conduct a hearing pursuant to this subsection more often than once every six months.

(i) A court, in its discretion, may appoint counsel to represent an indigent person, and that counsel shall perform his or her duties without fees, charges, or reward.

(j) Nothing in this Section shall be construed to affect the right of a party to sue or defend an action *in forma pauperis* without the payment of assessments, costs, or charges, or the right of a party to court-appointed counsel, as authorized by any other provision of law or by the rules of the Illinois Supreme Court. Nothing in this Section shall be construed to limit the authority of a court to order another party to action to pay the assessments, costs, or charges of the action.

(k) In any case where a party is represented by a civil legal services provider or an attorney in a court-sponsored pro bono program as defined in 735 ILCS 5/5-105.5, the attorney representing that party shall file a certification with the court in accordance with Supreme Court Rule 298 and that party shall be allowed to sue or defend without payment of assessments, costs, or charges without necessity of an Application.

(l) If an attorney files an appearance on behalf of a person whose assessments, costs, and charges were initially waived pursuant to 735 ILCS 5/5-105, the attorney must pay all assessments, costs, and charges relating to the civil action, including any previously waived assessments, costs, and charges, unless the attorney is either a civil legal services provider, representing their client pro bono as defined in 735 ILCS 5/5-105.5, or appearing pursuant to a Limited Scope Appearance in accordance with Supreme Court Rule 13(c)(6).

(m) The provisions of this Section are severable under Section 1.31 of the Statute on Statutes.

Proposed Amendments to Civil Assessment Waiver Statute, 735 ILCS 5/5-105

Redlined Version

Sec. 5-105. Leave to sue or defend as an indigent person. ¶

§ 5-105

(a) As used in this Section: ¶

§ 5-105.1

(1) “Fees, assessments, costs, and charges” means payments imposed on a party in connection with the prosecution or defense of a civil action, including, but not limited to: assessment set forth in 705 ILCS 105/27.1; fees for service of process and other papers served either within or outside this State, including service by publication pursuant to Section 2-206 of this Code and publication of necessary legal notices; motion fees; ~~jury demand fees~~; charges for participation in, or attendance at, any mandatory process or procedure including, but not limited to, conciliation, mediation, arbitration, counseling, evaluation, “Children First”, “Focus on Children” or similar programs; fees for supplementary proceedings; charges for translation services; guardian ad litem fees; and all other processes and procedures deemed by the court to be necessary to commence, prosecute, defend, or enforce relief in a civil action. ¶

(2) “Indigent person” means any person who meets one or more of the following criteria: ¶

(i) He or she is receiving assistance under one or more of the following means based governmental public benefits programs: Supplemental Security Income (SSI), Aid to the Aged, Blind and Disabled (AABD), Temporary Assistance for Needy Families (TANF), ~~Food Stamps~~, Supplemental Nutrition Assistance Program (SNAP), General Assistance, Transitional Assistance, or State Children and Family Assistance. ¶

(ii) His or her available income is 125% or less of the current poverty level, as established by the United States Department of Health and Human Services, unless the applicant's assets that are not exempt under Part 9 or 10 of Article XII of this Code are of a nature and value that the court determines that the applicant is able to pay the fees, assessments, costs, and charges. ¶

(iii) He or she is, in the discretion of the court, unable to proceed in an action without payment of fees, assessments, costs, and charges and whose payment of those fees, assessments, costs, and charges would result in substantial hardship to the person or his or her family. ¶

(iv) He or she is an indigent person pursuant to Section 5-105.5 of this Code. ¶

§ 3 "Poverty level" means the current poverty level as established by the United States Department of Health and Human Services. ¶

(b) On the application of any person, before, or after the commencement of an action, a:

(1) If the court, on finding finds that the applicant is an indigent person, shall grant the applicant leave shall be granted a full assessment waiver entitling him or her to sue or defend the action without payment of any assessments, costs, or charges. ¶

(2) If the court finds that the applicant satisfies any of the criteria contained in subsections (i), (ii), or (iii), the applicant shall be granted a partial assessment waiver entitling him or her to sue or defend the action upon payment of the applicable percentage of the fees assessments, costs, and charges of the action. ¶

as follows: ¶

(i) 75% of all assessments, costs, and charges shall be waived if the applicant's available income is between 125% and 150% of the poverty level, unless the applicant's assets that are not exempt under Part 9 or 10 of Article XII of this Code are such that the applicant is able, without undue hardship, to pay a greater portion of such assessments, costs, and charges. ¶

(ii) 50% of all assessments, costs, and charges shall be waived if the applicant's available income is between 150.1% and 175% of the poverty level, unless the applicant's assets that are not exempt under Part 9 or 10 of Article XII of this Code are such that the applicant is able, without undue hardship, to pay a greater portion of such assessments, costs, and charges; and ¶

(iii) 25% of all assessments, costs and charges shall be waived if his or her available income is between 175.1% and 200% of the current poverty level as established by the United States Department of Health and Human Services, unless the applicant's assets that are not exempt under Part 9 or 10 of Article XII of this Code are such that the applicant is able, without undue hardship, to pay a greater portion of such assessments, costs, and charges. ¶

(c) An application for leave to sue or defend an action as an indigent person Application for Waiver of Court Assessments shall be in writing and supported signed by the affidavit of the applicant, or, if the applicant is a minor or an incompetent adult, by the affidavit of another person having knowledge of the facts. The contents of the affidavit Application for Waiver of Court Assessments, and the procedure for decision of such Applications, shall be established by Supreme Court Rule 298. The court shall provide, through the office of the clerk of the court, simplified forms consistent with the requirements of this Section and applicable Supreme Court Rules the Application for Waiver of Court Assessments to any person seeking to sue or defend an action who indicates an inability to pay the fees assessments, costs, and charges of the action. The application and supporting affidavit may be incorporated into one simplified form. The clerk of the court shall post in a conspicuous place in the courthouse a notice no smaller than 8.5 x 11

inches, using no smaller than 30-point typeface printed in English and in Spanish, advising the public that they may ask the court for permission to sue or defend a civil action without payment of ~~fees~~assessments, costs, and charges. The notice shall be substantially as follows: ¶

“If you are unable to pay the ~~fees~~assessments, costs, and charges of an action you may ask the court to allow you to proceed without paying them. Ask the clerk of the court for forms.” ¶

~~(d) The court shall rule on applications under this Section in a timely manner based on information contained in the application unless the court, in its discretion, requires the applicant to personally appear to explain or clarify information contained in the application. If the court finds that the applicant is an indigent person, the court shall enter an order permitting the applicant to sue or defend without payment of fees, costs, or charges. If the application is denied, the court shall enter an order to that effect stating the specific reasons for the denial. The clerk of the court shall promptly mail or deliver a copy of the order to the applicant.~~ ¶

~~(d) The clerk of the court shall not refuse to accept and file any complaint, appearance, or other paper presented by the applicant if accompanied by an application to sue or defend in forma pauperis, Application for Waiver of Court Assessments, and those papers shall be considered filed on the date the application is presented. If the application is denied or a partial assessment waiver is granted, the order shall state a date certain by which the necessary ~~fees~~assessments, costs, and charges must be paid. ~~The court, for~~ For good cause shown, the court may allow an applicant ~~whose application is denied who receives a partial assessment waiver~~ to defer payment of ~~fees~~assessments, costs, and charges, make installment payments, or make payment upon reasonable terms and conditions stated in the order. The court may dismiss the claims or strike the defenses of any party failing to pay the ~~fees~~assessments, costs, or charges within the time and in the manner ordered by the court. ~~A determination concerning an application to sue or defend in forma pauperis shall not be construed as a ruling on the merits.~~ ¶~~

~~(f) The court may order an indigent person to pay all or a portion of the fees, costs, or charges waived pursuant to this Section out of moneys recovered by the indigent person pursuant to a judgment or settlement resulting from the civil action. However, nothing in this Section shall be construed to limit the authority of a court to order another party to the action to pay the fees, costs, or charges of the action.~~ ¶

~~(e) A judicial ruling on an Application for Waiver of Court Assessments shall not be considered to constitute a decision of a substantial issue in the case under 735 ILCS 5/1001.~~ ¶

~~(f) The order granting a full or partial assessment waiver shall expire after one year. Upon expiration of the assessment waiver, or a reasonable period of time before expiration, the party whose assessments, costs, and charges were previously waived may file another Application for Waiver of Court Assessments and the court shall consider the Application in accordance with the applicable Supreme Court Rule.~~ ¶

(g) If, before or at the time of final disposition of the case, the court obtains information, including information from the court file, suggesting that a person whose assessments, costs, and charges were initially waived was not entitled to a full or partial assessment waiver at the time of application the court may require the person to appear at a court hearing by giving the applicant no less than 10 days' written notice of the hearing and the specific reasons why the initial assessment waiver might be reconsidered. The court may require the applicant to provide reasonably available evidence, including financial information, to support his or her eligibility for the assessment waiver, but shall not require submission of information that is unrelated to the criteria for eligibility and application requirements set forth in subsections (b)(1) or (b)(2), above. If the court finds that the person was not initially entitled to any assessment waiver, the person shall pay all assessments, costs and charges relating to the civil action including any previously waived assessments, costs, and charges. The order may state terms of payment in accordance with subsection (e). The court shall not conduct a hearing pursuant to this subsection more often than once every six months. ¶

(h) If, before or at the time of final disposition of the case, the court obtains information, including information from the court file, suggesting that a person who received a full or partial assessment waiver has experienced a change in financial condition so that he or she is no longer eligible for that waiver, the court may require the person to appear at a court hearing by giving the applicant no less than 10 days' written notice of the hearing and the specific reasons why the assessment waiver might be reconsidered. The court may require the person to provide reasonably available evidence, including financial information, to support his or her continued eligibility for the assessment waiver, but shall not require submission of information that is unrelated to the criteria for eligibility and application requirements set forth in subsections (b)(1) and (b)(2), above. If the court enters an order finding that the person is no longer entitled to an assessment waiver, or is henceforth entitled to a partial assessment waiver different than that which they had previously received, the person shall pay the requisite assessments, costs, and charges from the date of the order going forward. The order may state terms of payment in accordance with subsection (e). The court shall not conduct a hearing pursuant to this subsection more often than once every six months. ¶

(i) A court, in its discretion, may appoint counsel to represent an indigent person, and that counsel shall perform his or her duties without fees, charges, or reward. ¶

(j) Nothing in this Section shall be construed to affect the right of a party to sue or defend an action *in forma pauperis* without the payment of ~~fees~~ assessments, costs, or charges, or the right of a party to court-appointed counsel, as authorized by any other provision of law or by the rules of the Illinois Supreme Court. ¶

~~(k) The provisions of this Section are severable under Section 1.31 of the Statute on Statutes. ¶ (Source: P.A. 97-689, eff. 6-14-12; 97-813, eff. 7-13-12.) Nothing in this Section shall be construed to limit the authority of a court to order another party to action to pay the assessments, costs, or charges of the action. ¶~~

Appendix C – Proposed Amended Civil Assessment Waiver Rule

Proposed Amendment to Illinois Supreme Court Rule 298

Clean Version

Rule 298. Application for Waiver of Court Assessments

(a) Contents. An Application for Waiver of Court Assessments in a civil action pursuant to 735 ILCS 5/5-105 shall be in writing and signed by the applicant or, if the applicant is a minor or an incompetent adult, by another person having knowledge of the facts.

(1) The contents of the Application must be sufficient to allow a court to determine whether an applicant qualifies for full or partial waiver of assessments pursuant to 735 ILCS 5/5-105, and shall include information regarding the applicant's household composition, receipt of need-based public benefits, income, expenses, and nonexempt assets.

(2) The court shall provide, and applicants shall be required to use, a standardized form titled "Application for Waiver of Court Assessments" adopted by the Illinois Supreme Court Access to Justice Commission.

(b) Ruling. The court shall either enter a ruling on the Application or set the Application for a hearing requiring the applicant to appear in person. The court may order the applicant to produce copies of specified documents in support of the Application at the hearing. The court's ruling on an Application for Waiver of Court Assessments shall be made according to standards set forth in 735 ILCS 5/5-105. If the Application is denied, the court shall enter an order to that effect specifying the reasons for the denial. If the court determines that the conditions for a full assessment waiver under 735 ILCS 5/5-105(b)(1) are satisfied, it shall enter an order permitting the applicant to sue or defend without payment of assessments, costs, or charges. If the court determines that the conditions for a partial assessment waiver under 735 ILCS 5/5-105(b)(2) are satisfied, it shall enter an order permitting the applicant to sue or defend after payment of a specified percentage of assessments, costs, or charges. If an Application for a partial assessment waiver is granted, and if necessary to avoid undue hardship on the applicant, the court may allow the applicant to defer payment of assessments, costs, and charges, make installment payments, or make payment upon reasonable terms and conditions stated in the order.

(c) Filing. No fee may be charged for filing an Application for Waiver of Court Assessments. The clerk must allow an applicant to file an Application for Waiver of Court Assessments in the court where his case will be heard.

(d) Cases involving representation by civil legal services provider or lawyer in court-sponsored pro bono program. In any case where a party is represented by a civil legal services provider or attorney in a court-sponsored pro bono program as defined in 735 ILCS 5/5-105.5, the attorney representing that party shall file a certification with the court in the form attached to this rule and that party shall be allowed to sue or defend without payment of assessments, costs, or charges as defined in 735 ILCS 5/5-105(a)(1) without necessity of an Application under this rule.

RULE 298 CERTIFICATION FOR WAIVER OF ASSESSMENTS REPRESENTATION BY CIVIL LEGAL SERVICES PROVIDER OR COURT-SPONSORED PRO BONO PROGRAM

Pursuant to Supreme Court Rule 298, the undersigned counsel hereby certifies that he/she is an attorney for _____ (*name of organization or court program*), a civil legal services provider or court-sponsored pro bono program as defined in 735 ILCS 5/5-105.5(a), and that _____ (*name of organization or court program*) has made the determination that _____ (*name of party*) has income of 125% or less of the current official poverty guidelines or is otherwise eligible to receive services under the eligibility guidelines of the civil legal services provider or court-sponsored pro bono program. As a result, under Supreme Court Rule 298, _____ (*name of party*) is eligible to sue or defend without payment of assessments, costs, or charges as defined at 735 ILCS 5/5-105(a)(1).

Attorney Certification

Name of Organization or Court Program _____

Attorney Name _____

Attorney No. _____

Address _____

City, State, Zip _____

Telephone _____

Email Address _____

Proposed Amendment to Illinois Supreme Court Rule 298

Redlined Version

Rule 298. Application for Waiver of Court Fees Assessments

(a) **Contents.** An Application for Waiver of Court Fees Assessments in a civil action pursuant to 735 ILCS 5/5-105 shall be in writing and signed by the applicant or, if the applicant is a minor or an incompetent adult, by another person having knowledge of the facts.

(1) The contents of the Application must be sufficient to allow a court to determine whether an applicant qualifies for full or partial waiver of fees assessments pursuant to 735 ILCS 5/5-105, and shall include information regarding the applicant's household composition, receipt of need-based public benefits, income, expenses, and nonexempt assets.

(2) The court shall provide, and applicants shall be required to use, a standardized form expressly titled "Application for Waiver of Court Fees Assessments" adopted by the Illinois Supreme Court Access to Justice Commission.

(b) **Ruling.** The court shall either enter a ruling on the Application or shall set the Application for a hearing requiring the applicant to personally appear in a timely manner. The court may order the applicant to produce copies of certain specified documents in support of the Application at the hearing. The court's ruling on an Application for Waiver of Court Fees Assessments shall be made according to standards set forth in 735 ILCS 5/5-105. If the Application is denied, the court shall enter an order to that effect stating specifying the specific reasons for the denial. If the Application is granted, court determines that the court conditions for a full assessment waiver under 735 ILCS 5/5-105(b)(1) are satisfied, it shall enter an order permitting the applicant to sue or defend without payment of fees assessments, costs, or charges. If the court determines that the conditions for a partial assessment waiver under 735 ILCS 5/5-105(b)(2) are satisfied, it shall enter an order permitting the applicant to sue or defend after payment of a specified percentage of assessments, costs, or charges. If an Application for a partial assessment waiver is granted, and if necessary to avoid undue hardship on the applicant, the court may allow the applicant to defer payment of assessments, costs, and charges, make installment payments, or make payment upon reasonable terms and conditions stated in the order.

(c) **Filing.** No fee may be charged for filing an Application for Waiver of Court Fees Assessments. The clerk must allow an applicant to file an Application for Waiver of Court Fees Assessments in the court where his case will be heard.

(d) **Cases involving representation by civil legal services provider or lawyer in court-sponsored pro bono program.** In any case where a party is represented by a civil legal services provider or attorney in a court-sponsored pro bono program as defined in 735 ILCS 5/5-105.5,

the attorney representing that party shall file a certification with the court in the form attached to this rule and that party shall be allowed to sue or defend without payment of fees assessments, costs, or charges as defined in 735 ILCS 5/5-105(a)(1) without necessity of an Application under this rule. ¶

¶

RULE 298. CERTIFICATION FOR WAIVER OF FEES—ASSESSMENTS—REPRESENTATION BY CIVIL LEGAL SERVICES PROVIDER OR COURT-SPONSORED PRO BONO PROGRAM

¶ Pursuant to Supreme Court Rule 298, the undersigned counsel hereby certifies that he/she is an attorney for _____ (name of organization or court program), a civil legal services provider or court-sponsored pro bono program as defined in 735 ILCS 5/5-105.5(a), and that _____ (name of organization or court program) has made the determination that _____ (name of party) has income of 125% or less of the current official poverty guidelines or is otherwise eligible to receive services under the eligibility guidelines of the civil legal services provider or court-sponsored pro bono program. ¶ As a result, under Supreme Court Rule 298, _____ (name of party) is eligible to sue or defend without payment of fees assessments, costs, or charges as defined at 735 ILCS 5/5-105(a)(1). ¶

¶

_____ ¶

_____ Attorney Certification _____ ¶

¶

Name of Organization or Court Program _____ ¶

Attorney Name _____ ¶

Attorney No. _____ ¶

Address _____ ¶

City, State, Zip _____ ¶

Telephone _____ ¶

Email Address _____ ¶

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Appendix D – Proposed Criminal/Traffic Assessment Act

Proposed Criminal/Traffic Assessment Act

Sec. 1. Short title.

This article may be cited as the Criminal/Traffic Assessment Act.

Sec. 2 Definitions.

For the purposes of this act:

“Assessment” means any costs imposed on a criminal or quasi-criminal defendant pursuant to the Criminal/Traffic Assessment Act.

“Business Offense” means a petty offense for which the fine is in excess of \$1,000.

“Charge” means the violation of a state statute or local ordinance.

“Conservation Offense” includes offenses defined in Supreme Court Rule 501(c).

“Conviction” means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury.

“Criminal Offense” means a petty offense, business offense, misdemeanor, felony, or municipal ordinance violation. As used in this Act, a minor traffic offense shall not be considered a criminal offense.

“Defendant” means a person or business charged with an offense.

“Domestic Violence Offense” means a violation of domestic battery (720 ILCS 5/12-3.2), aggravated domestic battery (720 ILCS 5/12-3.3), violation of an order of protection (720 ILCS 5/12-3.4), interfering with the reporting of domestic violence (720 ILCS 5/12-3.5), and disclosing location of domestic violence victim (720 ILCS 5/12-3.6).

“Drug Offense” means any violation of Chapter 720 Acts 550 (Cannabis Control Act), 570 (Illinois Controlled Substances Act) or 646 (Methamphetamine Control and Community Protection Act) of the Illinois Compiled Statutes or any similar local ordinance which involves to possession or delivery of the drug.

“Felony” means an offense for which a sentence to death or to a term of imprisonment in a penitentiary for one year or more is provided.

The “Illinois Vehicle Code” means Chapter 625, Act 5.

“Major traffic offense” means a Class A, B, or C, traffic offense or a similar provision of a municipal or local ordinance.

“Minor traffic offense” means a petty or business traffic offense or a similar provision of a municipal or local ordinance.

“Misdemeanor” means any offense for which a sentence to a term of imprisonment in other than a penitentiary for less than one year may be imposed.

“Petty Offense” means any offense for which a sentence of imprisonment is not an authorized disposition.

“Service Provider costs” means costs incurred as a result of services provided by a non-judicial entity including, but not limited to, traffic schools, laboratories, ambulance services, fire departments, etc.

“Sex Offense” means a violation of Article 11 (Sex Offenses) of Chapter 720 if the Criminal Code of 2012.

“Supervision” means a disposition of conditional and revocable release without probationary supervision, but under such conditions and reporting requirements as are imposed by the court, at the successful conclusion of which disposition the defendant is discharged and a judgment dismissing the charges is entered.

“Traffic Offense” means any charge of a violation described in Supreme Court Rule 501(f)

Sec. 3 Assessments

Sec. 3-1. Minimum fine.

Unless specified in the offense or the schedule, the minimum fine required in any violation will be \$25. If the court finds that the fine would impose an undue burden on the victim, the court may reduce or waive this fine.

Sec. 3-2. Schedules.

When any defendant is convicted of, pleads guilty to, or is placed on court supervision for a violation of the Illinois Compiled Statutes or any local ordinance, the court will order a schedule of assessments as set forth below for the defendant to pay in addition to any fine ordered by the court.

Sec. 3-4. Service Provider Costs

Service Provider Costs include amounts in the Conditional Amounts sections that are reimbursements for services provided. They are payable to the entity that provided the service. These amounts are not eligible for credit for time served, substitution of community service, or waiver.

Sec. 3-5. Credit Fine for Time Served

Any credit of fine for time served prior to sentencing will be deducted first from the fine, if any, ordered by the court. Any remainder of credit will be equally divided between the amounts paid to the treasurers indicated in the schedule.

Sec. 4. Assessment Schedules.

In all schedules except 1 through 4, the schedule amount will include \$15 which will be remitted to either the County Treasurer or local treasurer determined by the entity prosecuting the case. This amount is reflected in the Conditional Amounts because of the disbursement requirements but will be added into the total since it is collected in every instance except the Supreme Court Rule 529 Schedule #12.

Schedule 1 (Generic felony offenses)

\$444 + Conditional Amounts + Fine, if ordered

Clerk Portion - \$45

\$20 for deposit into the Court Automation Fund

\$20 for deposit into the Court Document Storage Fund

\$ 5 for deposit into the Circuit Court Clerk Operation and Administrative Fund

County Portion - \$259

\$225 for deposit into the County General Fund

\$ 10 for deposit into the Child Advocacy Center Fund

\$ 2 for deposit into the State's Attorney Records Automation Fund

\$ 2 for deposit into the Public Defender Records Automation Fund

\$ 10 for deposit into the County Jail Medical Costs Fund

\$ 10 deposit into the Probation and Court Services Fund

State Portion - \$140

\$ 40 for deposit into State Police funds

\$100 for deposit into the Violent Crime Victims Assistance Fund

Conditional Amounts

\$250 to lab that performs DNA analysis, if ordered

\$ 15 to lab that performs drug or alcohol testing (per test ordered)

\$ 25 per day ordered by court for trial attended by State's Attorney to County General Fund

\$ 10 for violations of domestic battery or aggravated domestic battery to State Treasurer for deposit into the Domestic Violence Shelter and Service Fund

\$ 25 to State Treasurer for violation of order of protection when victim is family or household member for Domestic Violence Abuser Services Fund.

\$ 25 for defendants on parole or mandatory supervised release to State Treasurer for deposit into Illinois Department of Corrections Parole Division Offender Supervision Fund.

\$500 for sexually motivated offenses to the State Treasurer for deposit into State Police funds.

Schedule 2 (Felony DUI offenses)

\$1,554 + Conditional Amounts + Fine, if ordered

Clerk Portion - \$45

\$20 for deposit into the Court Automation Fund

\$20 for deposit into the Court Document Storage Fund

\$ 5 for deposit into the Circuit Court Clerk Operation and Administrative Fund

County Portion - \$259

\$225 for deposit into the County General Fund

\$ 10 for deposit into the Child Advocacy Center Fund

\$ 2 for deposit into the State's Attorney Records Automation Fund

\$ 2 for deposit into the Public Defender Records Automation Fund

\$ 10 for deposit into the County Jail Medical Costs Fund

\$ 10 deposit into the Probation and Court Services Fund

State Portion - \$1,050

\$840 for deposit into State Police funds

\$100 for deposit into Violent Crime Victims Assistance Fund

\$ 5 for Driver's Education Fund

\$100 for Trauma Center Fund (split evenly between Dept of Public Health & HFS)

\$ 5 for Spinal Cord Injury Paralysis Cure Research Trust Fund

Local Portion - \$200

\$200 for deposit into the DUI Fund

Conditional Amounts

\$ 250 to lab that performs DNA analysis, if ordered

\$ 15 to lab that performs drug or alcohol testing (per test ordered)

\$ 25 per day ordered by court for trial attended by State's Attorney to County General Fund

\$1,000 maximum for reimbursement for emergency response (if response was needed)

\$ 150 to lab that performs DUI analysis (if laboratory was used)

\$ 25 for defendants on parole or mandatory supervised release to State Treasurer for deposit into Illinois Department of Corrections Parole Division Offender Supervision Fund.

Fee charged by Traffic School, if ordered.

Schedule 3 (Felony Drug Offenses)

\$2,114 + Conditional Amounts + Fine, if ordered

Clerk Portion - \$45

\$20 for deposit into the Court Automation Fund

\$20 for deposit into the Court Document Storage Fund

\$ 5 for deposit into the Circuit Court Clerk Operation and Administrative Fund

County Portion - \$259

\$225 for deposit into the County General Fund

\$ 10 for deposit into the Child Advocacy Center Fund

\$ 2 for deposit into the State's Attorney Records Automation Fund

\$ 2 for deposit into the Public Defender Records Automation Fund

\$ 10 for deposit into the County Jail Medical Costs Fund

\$ 10 deposit into the Probation and Court Services Fund

State Portion - \$1,810

\$ 40 for deposit into State Police funds

\$ 100 for deposit into Violent Crime Victims Assistance Fund

\$ 100 for Trauma Center Fund (split evenly between Dept of Public Health & HFS)

\$ 5 for Spinal Cord Injury Paralysis Cure Research Trust Fund

\$1,500 for deposit into Drug Treatment Fund

\$ 38 for deposit into Prescription Pill and Drug Disposal Fund

\$ 27 for Criminal Justice Information Projects Fund

Conditional Amounts

\$ 250 to lab that performs DNA analysis, if ordered

\$ 15 to lab that performs drug or alcohol testing (per test ordered)

\$ 25 per day ordered by court for trial attended by State's Attorney to County General Fund

\$1,000 maximum for reimbursement for emergency response (if response was needed)

\$ 150 to lab that performs drug analysis (if laboratory was used)

\$ 25 for defendants on parole or mandatory supervised release to State Treasurer for deposit into Illinois Department of Corrections Parole Division Offender Supervision Fund.

Schedule 4 (Felony Sex Offenses)

\$1,144 + Conditional Amounts + Fine, if ordered

Clerk Portion - \$45

\$20 for deposit into the Court Automation Fund

\$20 for deposit into the Court Document Storage Fund

\$ 5 for deposit into the Circuit Court Clerk Operation and Administrative Fund

County Portion - \$259

\$225 for deposit into the County General Fund

\$ 10 for deposit into the Child Advocacy Center Fund

\$ 2 for deposit into the State's Attorney Records Automation Fund

\$ 2 for deposit into the Public Defender Records Automation Fund

\$ 10 for deposit into the County Jail Medical Costs Fund

\$ 10 deposit into the Probation and Court Services Fund

State Portion - \$840

\$540 for deposit into State Police funds

\$100 for deposit into Violent Crime Victims Assistance Fund

\$200 for deposit into Sexual Assault Services Fund, if victim is family or household member, 50% of funds are deposited into Domestic Violence Shelter and Service Fund

Conditional Amounts

\$250 to lab that performs DNA analysis, if ordered

\$ 15 to lab that performs drug or alcohol testing (per test ordered)

\$ 25 per day ordered by court for trial attended by State's Attorney to County General Fund

\$ 25 for defendants on parole or mandatory supervised release to State Treasurer for deposit into Illinois Department of Corrections Parole Division Offender Supervision Fund.

\$ 25 for violation of order of protection when victim is family or household member to the State Treasurer for deposit into the Domestic Violence Shelter and Service Fund

Schedule 5 (Generic misdemeanor offenses)

\$355 + Conditional Amounts + Fine, if ordered

Clerk Portion - \$48

\$20 for deposit into the Court Automation Fund

\$20 for deposit into the Court Document Storage Fund

\$ 5 for deposit into the Circuit Court Clerk Operation and Administrative Fund

\$ 3 for deposit into the Circuit Court Clerk Electronic Citation Fund

County Portion - \$175

\$145 for deposit into the County General Fund *

\$ 10 for deposit into the Child Advocacy Center Fund

\$ 10 for deposit into the County Jail Medical Costs Fund

\$ 10 for deposit into the Probation and Court Services Fund

State Portion - \$115

\$40 for deposit into the State Police

\$75 for deposit into the Violent Crime Victims Assistance Fund

Local Portion - \$2

\$ 2 for E-Citation Fund

Conditional Amounts

\$15 for prosecution fees to County Treasurer for County General Fund or to Local Treasurer depending on who did prosecution

\$ 2 for deposit into the State's Attorney Records Automation Fund if prosecuted by State's Attorney

\$ 2 for deposit into the Public Defender Records Automation Fund if prosecuted by State's Attorney

\$ 15 to lab that performs drug or alcohol testing (per test ordered)

\$ 25 per day ordered by court for trial attended by State's Attorney to County General Fund

\$ 25 for defendants on parole or mandatory supervised release to State Treasurer for deposit into Illinois Department of Corrections Parole Division Offender Supervision Fund.

\$ 10 for violations of domestic battery or aggravated domestic battery to State Treasurer for deposit into the Domestic Violence Shelter and Service Fund

\$200 minimum on violations of orders of protection offenses to County Treasurer for deposit into the Probation and Court Services Fund

\$ 25 for violations of order of protection when victim is family or household member to State Treasurer for deposit into Domestic Violence Abuser Services Fund.

\$ 500 for sexually motivated offenses to the State Treasurer for deposit into State Police funds.

Schedule 6 (Misdemeanor DUI Offenses)

\$1,215 + Conditional Amounts + Fine, if ordered

Clerk Portion - \$48

\$20 for deposit into the Court Automation Fund

\$20 for deposit into the Court Document Storage Fund

\$ 5 for deposit into the Circuit Court Clerk Operation and Administrative Fund

\$ 3 for deposit into the Circuit Court Clerk Electronic Citation Fund

County Portion - \$175

\$145 for deposit into the County General Fund

\$ 10 for deposit into the Child Advocacy Center Fund

\$ 10 for deposit into the County Jail Medical Costs Fund

\$ 10 for deposit into the Probation and Court Services Fund

State Portion - \$625

\$440 for deposit into State Police funds

\$ 75 for deposit into the Violent Crime Victims Assistance Fund

\$ 5 for deposit into the Driver's Education Fund

\$100 for Trauma Center Fund (split evenly between Dept of Public Health & HFS)

\$ 5 for Spinal Cord Injury Paralysis Cure Research Trust Fund

Local Portion - \$352

\$ 2 for E-Citation Fund

\$350 for DUI Fund

Conditional Amounts

\$ 15 for prosecution fees to County Treasurer for County General Fund or to Local Treasurer depending on who did prosecution

\$ 2 for deposit into the State's Attorney Records Automation Fund if prosecuted by State's Attorney

\$ 2 for deposit into the Public Defender Records Automation Fund if prosecuted by State's Attorney

\$ 15 to lab that performs drug or alcohol testing (per test ordered)

\$ 25 per day ordered by court for trial attended by State's Attorney to County General Fund

\$ 25 for defendants on parole or mandatory supervised release to State Treasurer for deposit into Illinois Department of Corrections Parole Division Offender Supervision Fund.

\$1,000 maximum for reimbursement for emergency response (if response was needed)

\$ 150 to lab that performs DUI analysis (if laboratory was used)

Fee charged by Traffic School, if ordered.

Schedule 7 (Misdemeanor drug offenses)

\$825 + Conditional Amounts + Fine, if ordered

Clerk Portion - \$48

\$20 for deposit into the Court Automation Fund

\$20 for deposit into the Court Document Storage Fund

\$ 5 for deposit into the Circuit Court Clerk Operation and Administrative Fund

\$ 3 for deposit into the Circuit Court Clerk Electronic Citation Fund

County Portion - \$175

- \$145 for deposit into the County General Fund
- \$ 10 for deposit into the Child Advocacy Center Fund
- \$ 10 for deposit into the County Jail Medical Costs Fund
- \$ 10 for deposit into the Probation and Court Services Fund

State Portion - \$585

- \$ 40 for deposit into State Police funds
- \$ 75 for deposit into the Violent Crime Victims Assistance Fund
- \$100 for Trauma Center Fund (split evenly between Dept of Public Health & HFS)
- \$ 5 for Spinal Cord Injury Paralysis Cure Research Trust Fund
- \$300 for deposit into Drug Treatment Fund
- \$ 38 for deposit into Prescription Pill and Drug Disposal Fund
- \$ 27 for Criminal Justice Information Projects Fund

Local Portion - \$2

- \$2 for deposit into E-Citation Fund

Conditional Amounts

- \$ 15 for prosecution fees to County Treasurer for County General Fund or to Local Treasurer depending on who did prosecution
- \$ 2 for deposit into the State's Attorney Records Automation Fund if prosecuted by State's Attorney
- \$ 2 for deposit into the Public Defender Records Automation Fund if prosecuted by State's Attorney
- \$ 15 to lab that performs drug or alcohol testing (per test ordered)
- \$ 25 per day ordered by court for trial attended by State's Attorney to County General Fund
- \$ 25 for defendants on parole or mandatory supervised release to State Treasurer for deposit into Illinois Department of Corrections Parole Division Offender Supervision Fund.
- \$1,000 maximum for reimbursement for emergency response (if response was needed)
- \$ 100 to lab that performs drug analysis (if laboratory was used)

Schedule 8 (Misdemeanor sex offenses)

\$555 + Conditional Amounts + Fine, if ordered

Clerk Portion - \$48

\$20 for deposit into the Court Automation Fund

\$20 for deposit into the Court Document Storage Fund

\$ 5 for deposit into the Circuit Court Clerk Operation and Administrative Fund

\$ 3 for deposit into the Circuit Court Clerk Electronic Citation Fund

County Portion - \$175

\$145 for deposit into the County General Fund

\$ 10 for deposit into the Child Advocacy Center Fund

\$ 10 for deposit into the County Jail Medical Costs Fund

\$ 10 for deposit into the Probation and Court Services Fund

State Portion - \$815

\$540 for deposit into State Police funds

\$ 75 for deposit into the Violent Crime Victims Assistance Fund

\$200 for deposit into Sexual Assault Services Fund, if victim is family or household member, 50% of funds are deposited into Domestic Violence Shelter and Service Fund

Local Portion - \$2

\$ 2 for E-Citation Fund

Conditional Amounts

\$15 for prosecution fees to County Treasurer for County General Fund or to Local Treasurer depending on who did prosecution

\$ 2 for deposit into the State's Attorney Records Automation Fund if prosecuted by State's Attorney

\$ 2 for deposit into the Public Defender Records Automation Fund if prosecuted by State's Attorney

\$15 to lab that performs drug or alcohol testing (per test ordered)

\$25 per day ordered by court for trial attended by State's Attorney to County General Fund

\$25 for defendants on parole or mandatory supervised release to State Treasurer for deposit into Illinois Department of Corrections Parole Division Offender Supervision Fund.

\$25 for violation of order of protection when victim is family or household member to the State Treasurer for deposit into the Domestic Violence Shelter and Service Fund

Schedule 9 (Major traffic offenses (Non-DUI classes A, B and C))

\$360 + Conditional Amounts + Fine, if ordered

Clerk Portion - \$48

\$20 for deposit into the Court Automation Fund

\$20 for deposit into the Court Document Storage Fund

\$ 5 for deposit into the Circuit Court Clerk Operation and Administrative Fund

\$ 3 for deposit into the Circuit Court Clerk Electronic Citation Fund

County Portion - \$175

\$145 for deposit into the County General Fund

\$ 10 for deposit into the Child Advocacy Center Fund

\$ 10 for deposit into the County Jail Medical Costs Fund

\$ 10 for deposit into the Probation and Court Services Fund

State Portion - \$120

\$40 for deposit into State Police funds

\$75 for deposit into the Violent Crime Victims Assistance Fund

\$ 5 for deposit into the Driver's Education Fund

Local Portion - \$2

\$ 2 for E-Citation Fund

Conditional Amounts

\$15 for prosecution fees to County Treasurer for County General Fund or to Local Treasurer depending on who did prosecution

\$ 2 for deposit into the State's Attorney Records Automation Fund if prosecuted by State's Attorney

\$ 2 for deposit into the Public Defender Records Automation Fund if prosecuted by State's Attorney

\$15 to lab that performs drug or alcohol testing (per test ordered)

\$25 per day ordered by court for trial attended by State's Attorney to County General Fund

\$25 for defendants on parole or mandatory supervised release to State Treasurer for deposit into Illinois Department of Corrections Parole Division Offender Supervision Fund.

\$100 or \$500 maximum for reimbursement for emergency response (if response was needed)

Fee charged by Traffic School, if ordered.

Schedule 10 (Minor traffic offenses (Classes P and U))

\$140 + Conditional Amounts + Fine, if ordered

Clerk Portion - \$48

\$20 for deposit into the Court Automation Fund

\$20 for deposit into the Court Document Storage Fund

\$ 5 for deposit into the Circuit Court Clerk Operation and Administrative Fund

\$ 3 for deposit into the Circuit Court Clerk Electronic Citation Fund

County Portion - \$55

\$55 for deposit into the County General Fund

State Portion - \$20

\$15 for deposit into State Police funds

\$ 5 for deposit into the Driver's Education Fund

Local Portion - \$2

\$2 for E-Citation Fund

Conditional Amounts

\$15 for prosecution fees to County Treasurer for County General Fund or to Local Treasurer depending on who did prosecution

\$ 2 for deposit into the State's Attorney Records Automation Fund if prosecuted by State's Attorney

\$ 2 for deposit into the Public Defender Records Automation Fund if prosecuted by State's Attorney

\$15 to lab that performs drug or alcohol testing (per test ordered)

\$25 per day ordered by court for trial attended by State's Attorney to County General Fund

\$125 or \$250 for violations of speeding in a construction zone to State Treasurer or County Treasurer for deposit into Transportation Safety Highway Hire-back Fund, depending on who write the ticket.

\$50 for speeding or failure to stop in specified park zones to be remitted to park district

\$50 for not yielding to pedestrian in crosswalk in school zone to the remitted to school district

\$50 for speeding in specified school zone to the remitted to school district

Fee charged by Traffic School, if ordered.

Schedule 11 (Conservation offenses (Classes P and U))

\$150 + Conditional Amounts + Fine, if ordered

Clerk Portion - \$48

Court Automation \$20 for Court Automation Fund

Document storage \$20 for Court Document Storage Fund

Clerk Administration \$5 for Circuit Court Clerk Operation and Administrative Fund

E-Citation \$3 for Circuit Court Clerk Electronic Citation Fund

County Portion - \$55

\$55 for deposit into the County General Fund

State Portion - \$30

\$15 for deposit into State Police funds

\$15 for deposit into the Conservation Police Operations Assistance Fund

Local Portion - \$2

\$2 for E-Citation Fund

Conditional Amounts

\$15 for prosecution fees to County Treasurer for County General Fund or to Local Treasurer depending on who did prosecution

\$ 2 for deposit into the State's Attorney Records Automation Fund if prosecuted by State's Attorney

\$ 2 for deposit into the Public Defender Records Automation Fund if prosecuted by State's Attorney

Schedule 12 (Supreme Court Rule 529)

\$150

Clerk Portion - \$48

Court Automation \$20 for Court Automation Fund

Document storage \$20 for Court Document Storage Fund

Clerk Administration \$5 for Circuit Court Clerk Operation and Administrative Fund

E-Citation \$3 for Circuit Court Clerk Electronic Citation Fund

County Portion - \$30

\$30 for deposit into the County General Fund

State Portion - \$20

\$15 for deposit into State Police funds

\$ 5 for deposit into the Driver's Education Fund

Local Portion - \$52

\$ 2 for E-Citation Fund

\$50 mandatory fine

Conditional Amounts

Fee charged by Traffic School, if ordered.

Sec. 5. Funds

(a) All money collected by the clerk of the court based on the schedules shall be remitted as defined in Section 4 above to the County Treasurer, the State Treasurer and to the treasurers of the local governments. The treasurers are responsible for depositing the money into the funds as indicated in the schedules.

(b) The following funds are to be set up, if not already present, by the indicated Treasurers. If a county has not instituted, nor plans to institute a program that uses a particular fund, the County Treasurer need not create the fund and instead deposit the money intended for the fund into the County General Fund for use in financing the court system.

(1) State Treasurer

- (a) Conservation Police Operations Assistance Fund (30 ILCS 105/6z-87)
- (b) Criminal Justice Information Projects Fund (20 ILCS 3930/9.1)
- (c) Domestic Violence Abuser Services Fund (730 ILCS 5/5-9-1.11)
- (d) Domestic Violence Shelter and Service Fund (20 ILCS 1310)
- (e) Driver's Education Fund (105 ILCS 5/27-24.4)
- (f) Drug Treatment Fund
- (g) Illinois Department of Corrections Parole Division Offender Supervision Fund
- (h) Prescription Pill and Drug Disposal Fund
- (i) Sexual Assault Services Fund
- (j) Spinal Cord Injury Paralysis Cure Research Trust Fund
- (k) State Crime Laboratory Fund (drug crime lab fees)
- (l) State Police DUI Fund (DUI crime lab fees)
- (m) Transportation Safety Highway Hire-back Fund

- (n) Trauma Center Fund
- (o) Violent Crime Victims Assistance Fund

(2) County Treasurer

- (a) Child Advocacy Center Fund
- (b) Circuit Court Clerk Electronic Citation Fund
- (c) Circuit Court Clerk Operation and Administrative Fund
- (d) Court Automation Fund
- (e) Court Document Storage Fund
- (f) County General Fund
- (g) County Jail Medical Costs Fund
- (h) Probation and Court Services Fund
- (i) Public Defender Records Automation Fund
- (j) State's Attorney Records Automation Fund
- (k) Transportation Safety Highway Hire-back Fund

(3) Treasurers of Local Governments

- (a) DUI Fund
- (b) E-Citation Fund

Appendix E – Proposed Criminal Assessment Waiver Statute

Proposed Criminal Assessment Waiver Statute, 720 ILCS 5/3-9

Sec. 3-9. Leave to defend as an indigent person.

(a) As used in this Section:

(1) “Assessments” means any costs imposed on a criminal defendant pursuant to Schedules 1-9 of the Criminal/Traffic Assessment Act.

(2) “Indigent person” means any person who meets one or more of the following criteria:

(i) He or she is receiving assistance under one or more of the following means based governmental public benefits programs: Supplemental Security Income (SSI); Aid to the Aged, Blind and Disabled (AABD); Temporary Assistance for Needy Families (TANF); Supplemental Nutrition Assistance Program (SNAP); General Assistance; Transitional Assistance; or State Children and Family Assistance.

(ii) His or her available income is 125% or less of the current poverty level as established by the United States Department of Health and Human Services, unless the applicant’s assets that are not exempt under Part 9 or 10 of Article XII of this Code are of a nature and value that the court determines that the applicant is able to pay the assessments.

(iii) He or she is, in the discretion of the court, unable to proceed in an action without payment of assessments and whose payment of those assessments would result in substantial hardship to the person or his or her family.

(3) “Poverty level” means the current poverty level as established by the United States Department of Health and Human Services

(b) On the application of any defendant, after the commencement of an action, but no later than 30 days after sentencing:

(1) If the court finds that the applicant is an indigent person, the applicant shall be granted a full assessment waiver entitling him or her to sue or defend the action without payment of any assessments.

(2) If the court finds that the applicant satisfies any of the criteria contained in subsections (i) through (iii), the applicant shall be granted a partial assessment waiver entitling it to sue or defend the action upon payment of the following percentages of the assessments of the action:

(i) 75% of all assessments shall be waived if the applicant’s available income is 150% of the poverty level, unless the applicant’s assets that are not exempt under Part 9 or 10 of Article XII of this Code are such that the applicant is able, without undue hardship, to pay the total assessments.

(ii) 50% of all assessments shall be waived if the applicant’s available income is 175% of the poverty level, unless the applicant’s assets that are not exempt under Part 9 or 10 of Article XII of this Code are such that the court determines that the applicant is able, without undue hardship, to pay a greater portion of the assessments.

(iii) 25% of all assessments shall be waived if the applicant’s available income is 200% of the poverty level, unless the applicant’s assets that are not exempt under Part 9 or 10 of Article XII of this Code are such that the court determines that the applicant is able, without undue hardship, to pay a greater portion of the assessments.

(c) An Application for Waiver of Assessments shall be in writing, signed by the defendant or, if the defendant is a minor or an incompetent adult, by another person having knowledge of the facts, and filed no later than 30 days after sentencing. The contents of the Application for Waiver of Court Assessments, and the procedure for decision of such Applications, shall be established by Supreme Court Rule. The court shall provide, through the office of the

clerk of the court, the Application for Waiver of Assessments to any person seeking to defend an action who indicates an inability to pay the assessments. The clerk of the court shall post in a conspicuous place in the courthouse a notice no smaller than 8.5 x 11 inches, using no smaller than 30-point typeface printed in English and in Spanish, advising the public that they may ask the court for permission to defend a criminal action without payment of the assessments. The notice shall be substantially as follows:

“If you are unable to pay the required assessments you may ask the court to allow you to proceed without paying them. Ask the clerk of the court for forms.”

(d) For good cause shown, the court may allow an applicant whose application is denied or who receives a partial assessment waiver to defer payment of the assessments, make installment payments, or make payment upon reasonable terms and conditions stated in the order.

(e) Nothing in this Section shall be construed to affect the right of a party to defend an action *in forma pauperis* without the payment of assessments, or the right of a party to court-appointed counsel, as authorized by any other provision of law or by the rules of the Illinois Supreme Court.

(f) In any case where a party is represented by a criminal legal services provider or attorney in a court-sponsored pro bono program as defined in 735 ILCS 5/5-105.5, the attorney representing that party shall file a certification with the court as established by Supreme Court Rule 404 and that party shall be allowed to defend without payment of assessments without necessity of an Application.

(g) The provisions of this Section are severable under Section 1.31 of the Statute on Statutes.

Appendix F – Proposed Criminal Assessment Waiver Rule

Supreme Court Rule 404

Rule 404. Application for Waiver of Court Assessments

(a) Contents. An Application for Waiver of Court Assessments in a criminal action pursuant to 720 ILCS 5/3-9 shall be in writing and signed by the applicant or, if the applicant is a minor or an incompetent adult, by another person having knowledge of the facts. The application should be submitted no later than 30 days after the entry of judgment.

(1) The contents of the Application must be sufficient to allow a court to determine whether an applicant qualifies for a full or partial waiver of Assessments pursuant to 720 ILCS 5/3-9, and shall include information regarding the applicant's household composition, receipt of need-based public benefits, income, expenses, and nonexempt assets.

(2) The court shall provide and applicants shall be required to use a standardized form expressly titled "Application for Waiver of Assessments" adopted by the Illinois Supreme Court Access to Justice Commission.

(b) Ruling. The court shall either enter a ruling on the Application or shall set the Application for a hearing requiring the applicant to appear in person. The court may order the applicant to produce copies of certain documents in support of the Application at the hearing. The court's ruling on an Application for Waiver of Assessments shall be made according to standards set forth in 720 ILCS 5/3-9. If the Application is denied, the court shall enter an order to that effect specifying the reasons for the denial. If the court determines that the conditions for a full assessment waiver are satisfied, it shall enter an order permitting the applicant to defend without payment of the assessments. If the court determines that the conditions for a partial assessment waiver under 720 ILCS 5/3-9(a)(3) are satisfied, it shall enter an order permitting the applicant to sue or defend after payment of a specified percentage of the assessments. If an Application is denied or an Application for a partial assessment waiver is granted, the court may allow the applicant to defer payment of the assessments, making installment payments, or make payment upon reasonable terms and conditions stated in the order.

(c) Filing. No assessment may be charged for filing an Application for Waiver of Assessments. The clerk must allow an applicant to file an Application for Waiver of Assessments in the court where his case will be heard.

(d) Cases involving representation by criminal legal services providers or lawyers in court-sponsored pro bono program. In any case where a party is represented by a criminal legal services provider or an attorney in a court-sponsored pro bono program as defined in 735 ILCS 5/5-105.5, the attorney representing that party shall file a certification with the court in the form attached to this rule and that party shall be allowed to defend without payment of assessments as defined in 720 ILCS 5/3-9(a)(1) without necessity of an Application under this rule.

RULE 404 CERTIFICATION FOR WAIVER OF ASSESSMENTS REPRESENTATION BY CRIMINAL LEGAL SERVICES PROVIDER OR COURT-SPONSORED PRO BONO PROGRAM

Pursuant to Supreme Court Rule 404, the undersigned counsel hereby certifies that he/she is an attorney for _____ (*name of organization or court program*), a criminal legal services provider or court-sponsored pro bono program as defined in 735 ILCS 5/5-105.5(a), and that _____ (*name of organization or court program*) has made the determination that _____ (*name of party*) has income of 125% or less of the current official poverty guidelines or is otherwise eligible to receive services under the eligibility guidelines of the criminal legal services provider or court-sponsored pro bono program. As a result, under Supreme Court Rule 404, _____ (*name of party*) is eligible to sue or defend without payment of assessments as defined at 720 ILCS 5/3-9(a)(1)

Attorney Certification

Name of Organization or Court Program: _____

Attorney Name _____

Attorney No. _____

Address _____

City, State, Zip _____

Telephone _____

Email Address _____

Appendix G – Proposed Amendments to Illinois Supreme Court Rule 529

Clean Version

Rule 529. Fines, Penalties and Costs on Written Pleas of Guilty in Minor Traffic and Conservation Offenses

(a) Traffic Offenses.

(1) All traffic offenses, except those requiring a court appearance under Rule 551 and those involving offenses set out in Rule 526(b)(1), may be satisfied without a court appearance by a written plea of guilty, with the exception of electronic pleas unless authorized by the Supreme Court, and payment of the amount stated in Schedule 12 of the Criminal/Traffic Assessment Act. If an order of failure to appear to answer the charge has been entered pursuant to Rule 556(a), an additional assessment of \$35 shall be added. The clerk of the circuit court shall disburse the amount collected pursuant to statute.

(2) A charge of violating section 3-401(d), 15-111 or offenses punishable by fine pursuant to sections 15-113.1, 15-113.2 or 15-113.3 of the Illinois Vehicle Code (truck overweight and permit moves) (625 ILCS 5/15-111, 15-113.1 through 15-113.3), or similar municipal ordinances, may be satisfied without a court appearance by a written plea of guilty and payment of the minimum fine fixed by statute, plus the amount stated in Schedule 10 of the Criminal/Traffic Assessment Act. The clerk of the circuit court shall disburse the amount collected pursuant to statute.

(b) Conservation Offenses. All conservation offenses, except those provided in paragraphs (b), (c), (d), (e), (f) and (g) of Rule 527 may be satisfied without a court appearance by a written plea of guilty, with the exception of electronic pleas unless authorized by the Supreme Court, and payment of the amount stated in Schedule 10 of the Criminal/Traffic Assessment Act. The clerk of the circuit court shall disburse the amount collected pursuant to statute.

(c) Supervision on Written Pleas of Guilty. In counties designated by the Conference of Chief Circuit Judges, the circuit court may by rule or order authorize the entry of an order of supervision under section 5-6-3.1 of the Unified Code of Corrections (730 ILCS 5/5-6-3.1), for traffic offenses satisfied pursuant to paragraph (a) of this Rule 529. Such circuit court rule or order may include but does not require a program by which the accused, upon payment of the amount stated in Schedule 12, agrees to attend and successfully complete a traffic safety program approved by the court under standards set by the Conference. The accused shall be responsible for payment of any traffic safety program fees. If the accused fails to file a certificate of successful completion on or before the termination date of the supervision order, the supervision shall be summarily revoked and conviction entered. Any county designated by the Conference pursuant to this rule may opt-out of this rule upon notification to the Conference by the chief judge of the circuit and rescinding any rule or order entered to establish supervision on written pleas of guilty.

(d) The provisions of Supreme Court Rule 402 relating to pleas of guilty do not apply in cases where a defendant enters a guilty plea under this rule. The clerk of the circuit court shall disburse the monies collected as provided for in Schedule 12 of the Criminal/Traffic Assessment Act.

Redlined Version

Rule 529. Fines, Penalties and Costs on Written Pleas of Guilty in Minor Traffic and Conservation Offenses

¶

~~-----~~(a) Traffic Offenses. ¶

(1) All traffic offenses, except those requiring a court appearance under Rule 551 and those involving offenses set out in Rule 526(b)(1), may be satisfied without a court appearance by a written plea of guilty, with the exception of electronic pleas unless authorized by the Supreme Court, and payment of fines, penalties and costs, equal to the bail required by Rule 526 unless the amount stated in Schedule 12 of the Criminal/Traffic Assessment Act. If an order of failure to appear to answer the charge has been entered pursuant to Rule 556(a), in which case the fine, penalties and costs shall be equal to the amount of the required bail, plus an additional penalty assessment of \$35 shall be added. The balance remaining after deducting the amounts required by sections 27.3a and 27.3c clerk of the Clerks of Courts Act (705 ILCS 105/27.3a, 27.3c) circuit court shall be distributed as follows: disburse the amount collected pursuant to statute. ¶

(1) 44.5% shall be disbursed to the entity authorized by law to receive the fine imposed in the case; ¶

(2) 16.825% shall be disbursed to the State Treasurer; and ¶

(3) 38.675% shall be disbursed to the county's general corporate fund. ¶

No other fines, fees, penalties or costs shall be assessed in any case which is disposed of on a written plea of guilty without a court appearance under paragraph (a) of Rule 529. (2) A charge of violating section 3-401(d), 15-111 or offenses punishable by fine pursuant to sections 15-113.1, 15-113.2 or 15-113.3 of the Illinois Vehicle Code (truck overweight and permit moves) (625 ILCS 5/15-111, 15-113.1 through 15-113.3), or similar municipal ordinances, may be satisfied without a court appearance by a written plea of guilty and payment of the minimum fine fixed by statute, plus all applicable penalties and costs (see Rule 526(b)(1)). Fines, penalties, and costs shall be disbursed by the clerk the amount stated in Schedule 10 of the Criminal/Traffic Assessment Act. The clerk of the circuit court shall disburse the amount collected pursuant to statute. ¶

~~-----~~(b) Conservation Offenses. Conservation All conservation offenses for which \$120 cash bail is required under, except those provided in paragraphs (b), (c), (d), (e), (f) and (g) of Rule 527 may be satisfied without a court appearance by a written plea of guilty, with the exception of electronic pleas unless authorized by the Supreme Court, and payment of fines,

~~penalties and costs, equal to the cash bail required by Rule 527. The balance remaining after deducting the amounts required by sections 27.3a and 27.3c of the Clerks of Courts Act (705 ILCS 105/27.3a, 27.3c) shall be distributed as follows: the amount stated in Schedule 10 of the Criminal/Traffic Assessment Act. The clerk of the circuit court shall disburse the amount collected pursuant to statute. ¶~~

~~(1) 67% shall be disbursed to the entity authorized by law to receive the fine imposed in the case; ¶~~

~~(2) 16.825% shall be disbursed to the State Treasurer; and ¶~~

~~(3) 16.175% shall be disbursed to the county's general corporate fund. ¶~~

~~No other fines, fees, penalties or costs shall be assessed in any case which is disposed of on a written plea of guilty without a court appearance under paragraph (b) of this Rule 529. ¶~~

~~-----**(c) Supervision on Written Pleas of Guilty.** In counties designated by the Conference of Chief Circuit Judges, the circuit court may by rule or order authorize the entry of an order of supervision under section 5-6-3.1 of the Unified Code of Corrections (730 ILCS 5/5-6-3.1), for traffic offenses satisfied pursuant to paragraph (a) of this Rule 529. Such circuit court rule or order may include but does not require a program by which the accused, upon payment of the finer, penalties and costs equal to bail required by Rule 526 amount stated in Schedule 12, agrees to attend and successfully complete a traffic safety program approved by the court under standards set by the Conference. The accused shall be responsible for payment of any traffic safety program fees. If the accused fails to file a certificate of successful completion on or before the termination date of the supervision order, the supervision shall be summarily revoked and conviction entered. Any county designated by the Conference pursuant to this rule may opt-out of this rule upon notification to the Conference by the chief judge of the circuit and rescinding any rule or order entered to establish supervision on written pleas of guilty. ¶~~

~~-----**(d)** The provisions of Supreme Court Rule 402 relating to pleas of guilty do not apply in cases where a defendant enters a guilty plea under this rule. The clerk of the circuit court shall disburse finer, penalties, and costs the monies collected as provided for in paragraph (a) Schedule 12 of this Rule 529 the Criminal/Traffic Assessment Act. ¶~~

~~.....Page Break ¶~~

Appendix H – Recommended Legislative Checklist

Recommended Checklist for Review of New Assessment Legislation

- Ensure that the new assessment's location in statute is consistent
 - Prior to reform, fees were distributed throughout multiple acts of ILCS. Going forward, they should be located in a single Act.
- Ensure that all modification to assessments advanced in a legislative session have consistent effective dates
 - Clerks have experienced difficulty implementing multiple new fees at different points in a year. Any legislation enacted in a session should have the same effective date.
- Ensure that the new statute clearly describes assessment distribution
 - Statute should clearly lay out the entities and funds that are to receive the assessment and how it is to be collected.
- Ensure that the new statute clearly states the nature of offenses (in criminal schedules) or filings or other activities (in civil cases) applicable to an assessment
- State clearly whether the new assessment impacts the total value of a schedule or whether it modifies distribution of the existing amount

