

August 25, 2022

Mr. Steven F. Pflaum  
Chair, Illinois Statutory Court Fees Task Force  
Neal, Gerber & Eisenberg LLP  
Two North LaSalle Street, Suite 1700  
Chicago, IL 60602

*Re: Illinois Statutory Court Fee Task Force Draft Report*

Dear Mr. Pflaum,

Thank you for the opportunity to review the Illinois Statutory Court Fee Task Force (Task Force) draft report on the implementation of the Criminal & Traffic Assessment Act (CTAA). The following comments relating to applications for waivers of fees and assessments are submitted on behalf of the Illinois Supreme Court Commission on Access to Justice (Commission). While a vast majority of Commissioners support the position against the recommendation requiring the submission of proof of benefits and income with the applications as stated in this letter, a few Commissioners preferred the report's recommendation requiring proof of benefits and income.

To give context to our comments, the Illinois Supreme Court established the Commission to assist vulnerable court users including those with low incomes who face difficulties in accessing our legal system. The Access to Justice Division (Division) of the Administrative Office of the Illinois Courts (AOIC) supports the work of the Commission. Moreover, Division staff works closely with the other divisions of the AOIC and with other stakeholders to improve the justice delivery systems which serve low-income, limited English proficient, self-represented, and vulnerable litigants. The Commission and Division often speak on behalf of such litigants as to issues impacting their access to the courts.

The Commission and the Division have long been involved in the area of fee and assessment waivers. The Commission's Forms Committee drafted the statewide standardized forms which are used by litigants seeking fee and assessment waivers. Division staff has created signage for use in courthouses which inform litigants in English and Spanish about the opportunity to request waivers; the signage satisfies statutory requirements for such notice. The Division also released a judicial bench card and federal poverty level (FPL) charts that are updated annually to assist judges in their consideration of waiver applications. The Division serves as the AOIC liaison for judicial education sessions about fee and assessment waivers.

More importantly, the Division members hear directly from self-represented litigants daily through Illinois Court Help, a hotline for court users who are seeking assistance as to court procedures. Through the hotline, the Division has learned firsthand that court users have difficulties in completing and then e-filing the applications for waivers. Because the procedures for waiver applications are disparate across the state and even within the same county, it is challenging to provide meaningful assistance for litigants with questions about the application process.



The Commission requests that the Task Force remove the suggested requirements that litigants provide proof of public benefits or documentation of income when filing their waiver applications as set forth in the proposed amendments to Supreme Court Rules 298 and 404 (Exhibit E of draft report). These requirements would place an undue burden on litigants in that they often will not have such documentation readily available and will likely face challenges in obtaining such documentation due to such issues as complicated government websites and their transient housing situations. They often do not have the technology skills or the equipment necessary to obtain this proof.

Members of the Division investigated how individuals could secure proof that they are recipients of public benefits and learned that there is not a simple method for obtaining the documentation. The Illinois Department of Human Services does provide Link Cards to benefit recipients. The Link Cards are used to spend down the eligible benefits (e.g. SNAP, TANF). However, a [Link card](#) does not have the benefit recipient's name on it.

The only self-service options for benefit recipients to obtain proof of their benefits are found on websites: [Manage My Case](#) (MMC) and [manage my Illinois link card website](#). However, the websites are not easy to navigate and several steps must be taken to print out benefit information should the applicant have a printer.

There are also similar challenges to obtaining proof of income. Paystubs are often transmitted electronically, which would require the ability to find the electronic paystub and print it off. Additionally, tax returns are available only once a year and retaining a copy of those returns may be unlikely for many people who do not use the returns for any other reason.

The burden on litigants to obtain either proof of benefits or income from websites or other online sources is similar to the burden that many litigants face with e-filing, which was mandated in 2018. Understanding that many low income and older individuals do not have the necessary technology skills or access to the necessary equipment (e.g. computer and printer) the Supreme Court created an e-filing exemption. The exemption applies to individuals who cannot use or readily access technology and they are allowed to bypass the e-filing system entirely and file on paper. The exemption assures that the e-filing mandate does not serve as a barrier to accessing our courts.

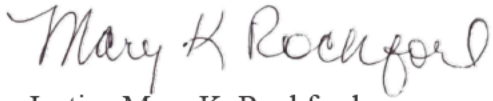
The applications for waiver of fees and assessments are verified as true and correct and we believe that imposing the requirements of providing proof of benefits or income is not necessary at the time of filing and would place an undue burden on vulnerable litigants.

Additionally, we offer comment on the proposal to amend Rule 298 (c)(2) and Rule 404 (c)(2) which pertains to elements which must be included in an order setting a fee waiver application for hearing. We suggest that this section (with amendments shown in red) should provide that the order include: (a) the specific questions of fact that necessitate the hearing; ~~and~~ (b) what documents, if any, must be submitted in support of the Application at or before the hearing, and how to submit them; and (c) the remote hearing meeting ID and password or the courtroom location if in person. This comment had the full support of the Commission.

We appreciate the time and effort which the Task Force has undertaken and the opportunity to submit these comments.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Mary K. Rochford". The signature is written in a cursive style with a large, flowing "M" and "R".

Justice Mary K. Rochford  
Chair  
Illinois Supreme Court Commission on Access to Justice

cc: Justice David Overstreet, ATJ Commission Liaison, Illinois Supreme Court Justice  
Alison Spanner, Assistant Director, ATJ Division, AOIC  
Amy Bowne, Chief Legal Counsel, AOIC