

M.R. 3140

IN THE  
SUPREME COURT  
OF  
THE STATE OF ILLINOIS

Order entered May 30, 2023.

(Deleted material is struck through, and new material is underscored.)

Effective September 1, 2023, Illinois Supreme Court Rules 298 and 404 are amended, as follows.

**Amended Rule 298**

**Rule 298. Application for Waiver of Court Fees, Costs, and Charges**

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

(1) An applicant shall use the “Application for Waiver of Court Fees” form approved by the Illinois Supreme Court and the Supreme Court Commission on Access to Justice, which includes a certification under 735 ILCS 5/1-109.

(2) 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, costs, and charges ~~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) Applicants shall use the “Application for Waiver of Court Fees” adopted by the Illinois Supreme Court Access to Justice Commission, which can be found in the Article II Forms Appendix.~~

**(b) Filing.**

(1) No fee may be charged for filing an Application for Waiver of Court Fees.

(2) The clerk must allow an applicant to file an Application for Waiver of Court Fees in the court where the applicant’s case will be heard.

(3) Applications for Waiver of Court Fees by persons who are exempt from electronic filing under Rule 9(c) may be filed in-person at the clerk of court or by United States mail, third-party commercial carrier, deposit in a drop box receptacle maintained by the clerk, or any other means permitted by the local court. All other Applications for Waiver of Court Fees shall be electronically filed.

(4) Upon filing, the clerk shall promptly transmit an Application for Waiver of Court Fees to the judge assigned to rule on it.

**(c) Decision of Application.** ~~Ruling.~~ Applications shall be decided as soon as reasonably

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**MAY 30 2023**

**SUPREME COURT  
CLERK**

possible in accordance with the following procedure:

(1) The court shall either enter an order ruling on the Application on the basis of the information contained on the face of the Application form, without conducting a hearing, unless the court determines that relevant sections of the Application are incomplete or give rise to a factual issue regarding the applicant's satisfaction of the conditions for a waiver under 735 ILCS 5/5105(b).

(2) If the court determines that relevant sections are incomplete or there is a factual issue regarding the applicant's entitlement to a waiver, outright denial is not permitted. The applicant must be notified of the deficiencies and given the opportunity to amend the Application and/or be given a remote hearing in accordance with Rule 45 and any Supreme Court policy on remote court appearances, unless the applicant requests an in-person hearing or will already be present in the courthouse on the date of the hearing. The court shall enter an order stating: (i) the specific eligibility questions that necessitate a hearing; (ii) what documents, if any, must be submitted in support of the Application at or before the hearing, and how to submit them; and (iii) the date and time for a remote hearing unless the applicant requests an in-person hearing, and the remote hearing meeting ID and password or courtroom location, if requested to be in-person. Any hearing on the Application for Waiver of Court Fees shall be scheduled promptly, with due regard for the need to provide reasonable notice to the applicant, but within 30 days of filing, 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.

(3) An order deciding an Application, with or without a hearing, or scheduling a hearing shall use the "Order for Waiver of Court Fees" form approved by the Illinois Supreme Court and the Supreme Court Commission on Access to Justice. The court's ruling on an Application for Waiver of Court Fees 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. As provided in the form Order, if If the court determines that the conditions for a full fees, costs, and charges 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 fees, costs, and charges 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 fees, assessments, costs, or charges. If an Application for a partial fees, costs, and charges assessment waiver is granted, and if necessary to avoid undue hardship on the applicant, the court may allow the applicant to defer payment of fees, assessments, costs, and charges, make installment payments, or make payment upon reasonable terms and conditions stated in the order.

(4) The clerk shall provide one or more options for the applicant to obtain the court's ruling on the Application, including but not limited to mailing a copy of the court's ruling to the address on the Application or providing notification by e-mail or text as requested by the applicant.

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

(d) Document Retention. Any document ordered to be submitted in support of an Application shall be treated by the clerk as a sealed document.

(f) 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, 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. Instead, the attorney representing the party shall file a certification prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article II Forms Appendix.

Amended October 20, 2003, effective November 1, 2003; amended September 25, 2014, eff. immediately; amended Dec. 29, 2017, eff. Jan. 1, 2018; amended Feb. 13, 2019, eff. July 1, 2019; amended May 30, 2023, eff. Sept. 1, 2023.

#### Committee Comment

(May 30, 2023)

Paragraph (b)(1). Applicants receiving assistance under one or more of the means-based governmental public benefits programs are not required to provide any additional financial information because they have been screened, reviewed, and approved by the relevant government agency and regular recertification is required to maintain that benefit.

#### **Amended 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 725 ILCS 5/124A-20 shall be in writing and signed under penalty of perjury 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 sentencing.

(1) An applicant shall use the “Application for Waiver of Court Assessments” form approved by the Illinois Supreme Court and the Supreme Court Commission on Access to Justice, which includes a certification under 735 ILCS 5/1-109.

(2) 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 725 ILCS 5/124A-20 and shall include information regarding the applicant’s household composition, receipt of need-based public benefits, income, expenses, and nonexempt assets.

~~—(2) Applicants shall use the “Application for Waiver of Court Assessments” adopted by the Illinois Supreme Court Access to Justice Commission, which can be found in the Article IV Forms Appendix.~~

**(b) Filing.**

(1) No fee may be charged for filing an Application for Waiver of Court Assessments.

(2) The clerk must allow an applicant to file an Application for Waiver of Assessments in the court where the applicant's case will be heard.

(3) Applications for Waiver of Court Assessments by persons who are exempt from electronic filing under Rule 9(c) may be filed in-person at the clerk of court or by United States mail, third-party commercial carrier, deposit in a drop box receptacle maintained by the clerk, or any other means permitted by the local court. All other Applications for Waiver of Court Assessments shall be electronically filed.

(4) Upon filing, the clerk shall promptly transmit an Application for Waiver of Court Assessments to the judge assigned to rule on it.

**(c) Decision of Application, Ruling.** Applications shall be decided as soon as reasonably possible in accordance with the following procedure:

(1) The court shall either enter an order ruling on the Application on the basis of the information contained on the face of the Application form, without conducting a hearing, unless the court determines that relevant sections of the Application are incomplete or give rise to a factual issue regarding the applicant's satisfaction of the conditions for a waiver under 725 ILCS 5/124A-20(b).

(2) If the court determines that the relevant sections are incomplete or there is a factual issue regarding the applicant's entitlement to a waiver, outright denial is not permitted. The applicant must be notified of the deficiencies and given the opportunity to amend the Application and/or be given a remote hearing in accordance with Rule 45 and any Supreme Court policy on remote court appearances, unless the applicant requests an in-person hearing or will already be present in the courthouse on the date of the hearing. The court shall enter an order stating: (i) the specific eligibility questions that necessitate a hearing; (ii) what documents, if any, must be submitted in support of the Application at or before the hearing, and how to submit them; and (iii) the date and time for a remote hearing unless the applicant requests an in-person hearing, and the remote hearing meeting ID and password or courtroom location, if requested to be in-person. Any hearing on the Application for Waiver of Court Fees shall be scheduled promptly, with due regard for the need to provide reasonable notice to the applicant, but within 30 days of filing, 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, 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.

(3) An order deciding an Application, with or without a hearing, or scheduling a hearing, shall use the "Order for Waiver of Criminal Court Assessments" form approved by the Illinois Supreme Court and the Supreme Court Commission on Access to Justice. The court's ruling on an Application for Waiver of Assessments shall be made according to standards set forth in 725 ILCS 5/124A-20. As provided in the form Order, if 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 under 725 ILCS 5/124A-20(b)(1), it shall enter an order

waiving the payment of the assessments. If the court determines that the conditions for a partial assessment waiver under 725 ILCS 5/124A-20(b)(2) are satisfied, it shall enter an order for 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, make installment payments, or make payment upon reasonable terms and conditions stated in the order.

~~—(e) 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 Assessments in the court where his case will be heard.~~

(d) Document Retention. Any document ordered to be submitted in support of an Application shall be treated by the clerk as a sealed document.

(f) Cases involving representation by public defenders, criminal legal services providers, or attorneys in court-sponsored pro bono program. In any case where a defendant party is represented by a public defender, criminal legal services provider, or an attorney in a court-sponsored pro bono program, the attorney representing that defendant party shall file a certification with the court, and that party defendant shall be entitled to a waiver of assessments allowed to proceed without payment of assessments as defined in 725 ILCS 5/124A-20(a) without necessity of an Application under this rule. “Criminal legal services provider” means a not-for-profit corporation that (i) employs one or more attorneys who are licensed to practice law in the State of Illinois and who directly provide free criminal legal services or (ii) is established for the purpose of providing free criminal legal services by an organized panel of *pro bono* attorneys. “Court-sponsored *pro bono* program” means a *pro bono* program established by or in partnership with a court in this State for the purpose of providing free criminal legal services by an organized panel of *pro bono* attorneys.

Adopted Feb. 13, 2019, eff. July 1, 2019; amended May 30, 2023, eff. Sept. 1, 2023.

Committee Comments  
(May 30, 2023)

Paragraph (b)(1). Applicants receiving assistance under one or more of the means-based governmental public benefits programs are not required to provide any additional financial information because they have been screened, reviewed, and approved by the relevant government agency and regular recertification is required to maintain that benefit.

~~—The Application for Waiver of Court Assessments form referenced in subparagraph (a)(2) of this rule will be promulgated before its July 1, 2019, effective date.~~