M.R. 3140

IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS

Order entered July 18, 2023.

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

On October 27 and December 23, 2022, Rules 46, 501, 504, 505, 529, 530, 531, 551, 552, 555, 556, 570, 572, 585, 589, 604, 605, 606, and 607 were amended and to be effective on January 1, 2023, but held in abeyance by a supervisory order of December 31, 2022. Effective September 18, 2023, the abeyance is lifted, and those rules shall become effective. Additionally, Rules 503, 526, 527, 528, 532, 553, and 554 were repealed, effective January 1, 2023, and their repeal shall instead be effective on September 18, 2023.

Amended Rule 46

Rule 46. Official Record of Court Proceedings

(a) Taking of the Record. The record of court proceedings may be taken by stenographic means or by an electronic recording system, including video conferencing services, approved by the Supreme Court. All transcripts prepared as the official record of court proceedings shall be prepared pursuant to applicable supreme court rules.

(b) Security of the Record. The confidentiality of court proceedings and the retention and safekeeping of notes and electronic recordings shall be maintained consistent with standards established by the Supreme Court through its Administrative Office.

(c) Court Reporting Personnel. For purposes of this rule and other supreme court rules regarding the official record, "court reporting personnel" shall include:

(1) court reporters as defined by the Court Reporters Act (705 ILCS 70/1);

(2) court personnel who have fulfilled the training and certification standards promulgated by the Supreme Court and consistent with paragraph (d) of this rule; and

(3) certified shorthand reporters hired through an agency or as an independent contractor by a private party or parties to take a stenographic record in court proceedings.

(d) Electronic Recording of Court Proceedings.

(1) The Supreme Court shall provide for and prescribe the types of electronic recording equipment and video conferencing services that may be used in the circuit courts. Those jurisdictions with electronic recording systems installed are required to properly utilize and staff such equipment in order to produce a reliable verbatim record of the proceedings.

(2) Court reporting personnel, including court reporters as defined by the Court Reporters Act (705 ILCS 70/1), must successfully complete training and certification designed to qualify

them to operate electronic recording equipment, prepare transcripts from such proceedings, and certify the record on appeal. Such training and certification shall be consistent with standards established by the Supreme Court, through its Administrative Office.

(3) Electronic recordings of proceedings shall remain under the control of the court having custody of them. The chief judges shall provide for the storage and safekeeping of such recordings consistent with the standards referenced in paragraph (b) of this rule.

(4) The Administrative Office shall monitor the operation of electronic recording equipment, the security of the electronic recordings, and the training of court reporting personnel to assure that each county is in compliance with this rule.

(e) Pretrial Fairness Act. If a hearing under the Pretrial Fairness Act is conducted by means of two-way audiovisual communications or other electronic recording system pursuant to this rule, the audio or audiovisual recording shall be used as the report of proceedings for the purpose of appeals where specifically authorized by Illinois Supreme Court Rule or order.

Adopted December 13, 2005, effective immediately; amended May 22, 2020, eff. immediately; amended Dec. 23, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Amended Rule 501

Rule 501. Definitions

(a) Reserved.

(b) Reserved.

(c) Conservation Offense. Any case charging a violation listed below, except any charge punishable upon conviction by imprisonment in the penitentiary:

(1) The Fish and Aquatic Life Code, as amended (515 ILCS 5/1-1 *et seq.*);

(2) The Wildlife Code, as amended (520 ILCS 5/1.1 *et seq.*);

(3) The Boat Registration and Safety Act, as amended (625 ILCS 45/1-1 *et seq.*);

(4) The Park District Code, as amended (70 ILCS 1205/1-1 *et seq.*);

(5) The Chicago Park District Act, as amended (70 ILCS 1505/ 0.01 *et seq.*);

(6) The State Parks Act, as amended (20 ILCS 835/ 0.01 *et seq.*);

(7) The State Forest Act, as amended (525 ILCS 40/ 0.01 *et seq.*);

(8) The Forest Fire Protection District Act, as amended (425 ILCS 40/ 0.01 *et seq.*);

(9) The Snowmobile Registration and Safety Act, as amended (625 ILCS 40/1-1 *et seq.*);

(10) The Endangered Species Protection Act, as amended (520 ILCS 10/1 *et seq.*);

(11) The Forest Products Transportation Act, as amended (225 ILCS 740/1 *et seq.*);

(12) The Timber Buyers Licensing Act, as amended (225 ILCS 735/1 *et seq.*);

(13) The Downstate Forest Preserve District Act, as amended (70 ILCS 805/ 0.001 *et seq.*);

(14) The Exotic Weed Act, as amended (525 ILCS 10/1 *et seq.*);

(15) The Ginseng Harvesting Act, as amended (525 ILCS 20/ 0.01 *et seq.*);

(16) The Cave Protection Act, as amended (525 ILCS 5/1 *et seq.*);

(17) Any regulations, proclamations or ordinances adopted pursuant to any code or act named in this Rule 501(c);

(18) Ordinances adopted pursuant to the Counties Code for the acquisition of property for parks or recreational areas (55 ILCS 5/5-1005(18));

(19) The Recreational Trails of Illinois Act, as amended (20 ILCS 862/1 *et seq.*);

(20) The Herptiles-Herps Act, as amended (510 ILCS 68/1-1 *et seq.*).

(d) Reserved.

(e) Unit of Local Government. Any county, municipality, township, special district, or unit designated as a unit of local government by law.

(f) Traffic Offense.

(1) Any case which charges a violation of any statute, ordinance or regulation relating to the operation or use of motor vehicles, the use of streets and highways by pedestrians or the operation of any other wheeled or tracked vehicle. Traffic cases are classified as follows:

(i) "Major Traffic Offense" means a traffic offense under the Toll Highway Act (605 ILCS 10/1 *et seq.*), Illinois Vehicle Code (625 ILCS 5/1-100 *et seq.*), or a similar provision of a local ordinance other than a petty offense or business offense that is punishable by a term of imprisonment of less than one year.

(ii) "Minor Traffic Offense" means a petty offense or business offense under the Toll Highway Act (605 ILCS 10/1 *et seq.*), Child Passenger Protection Act (625 ILCS 25/1 *et seq.*), Illinois Vehicle Code (625 ILCS 5/1-100 *et seq.*), or a similar provision of a local ordinance.

(2) A traffic offense does not include a case in which a ticket was served by "tie-on," "hang-on," or "appended" methods and cases charging violations of:

(i) Article I of chapter 4 of the Illinois Vehicle Code, as amended (anti-theft laws) (625 ILCS 5/4-100 *et seq.*);

(ii) Any charge punishable upon conviction by imprisonment in the penitentiary;

(iii) "Jay-walking" ordinances of any unit of local government;

(iv)Any conservation offense (see Rule 501(c)).

(g) Notice to appear. An option allowing release by a written request issued by a peace officer that a person appear before a court at a stated time and place (725 ILCS 5/107-1(c)).

Amended effective October 7, 1970; amended January 31, 1972, effective March 1, 1972; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended March 27, 1985, effective May 1, 1985; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended December 7, 1990, effective January 1, 1991; amended June 12, 1992, effective July 1, 1992; amended May 24, 1995, effective January 1, 1996; amended September 30, 2002, effective immediately; amended June 11, 2009, effective immediately; amended August 6, 2010, effective September 15, 2010; amended Dec.

12, 2013, eff. Jan. 1, 2014; amended June 11, 2014, eff. July 1, 2014; amended December 30, 2014, eff. Jan. 1, 2015; amended Oct. 15, 2015, eff. immediately; amended Dec. 29, 2017, eff. Jan. 1, 2018; amended Dec. 10, 2018, eff. Jan. 1, 2019; amended Mar. 8, 2019, eff. July 1, 2019; amended Feb. 6, 2020, eff. Mar. 1, 2020; amended June 9, 2020, eff. July 1, 2020; amended Oct. 27, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Amended Rule 504

Rule 504. Appearance Date

The date set by the arresting officer or the clerk of the circuit court for an accused's first appearance in court shall be not less than 14 days but within 60 days after the date of the arrest, whenever practicable. It is the policy of this court that, if the arresting agency has been exempted from the requirements of Rule 505, an accused who appears and pleads "not guilty" to an alleged traffic or conservation offense punishable by fine only should be granted a trial on the merits on the appearance date or, if the accused demands a trial by jury, within a reasonable time thereafter. A failure to appear on the first appearance date by an arresting officer from a Rule 505 exempted agency shall, in and of itself, not normally be considered good cause for a continuance.

Amended effective October 7, 1970; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended December 22, 1981, effective January 15, 1982; amended November 21, 1988, effective December 1, 1988; amended June 19, 1989, effective August 1, 1989; amended May 24, 1995, effective January 1, 1996; amended Oct. 27, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Committee Comments
(September 18,~~January 1,~~ 2023)

The 14 to 60 days referenced in Rule 504 encompasses the 21-day scheduling requirement, as well as up to 39 additional days for rescheduling.

Section 109-1 of the Code of Criminal Procedure of 1963 (725 ILCS 5/109-1) states as follows:

> "(a-1) Law enforcement shall issue a citation in lieu of custodial arrest, upon proper identification, for those accused of traffic and Class B and C criminal misdemeanor offenses, or of petty and business offenses, who pose no obvious threat to the community or any person, or who have no obvious medical or mental health issues that pose a risk to their own safety. Those released on citation shall be *scheduled* into court within 21 days.
>
> (a-3) A person arrested with or without a warrant for an offense for which pretrial release may not be denied may, except as otherwise provided in this Code, be released by the officer without appearing before a judge. The releasing officer shall issue the person a summons to appear within 21 days. A presumption in favor of pretrial release shall be applied by an arresting officer in the exercise of his or her discretion under this Section." (Emphasis added.)

Amended Rule 505

Rule 505. Notice to Accused

When issuing a Uniform Citation and Complaint, a conservation complaint or a Notice to Appear in lieu of either, the officer shall also issue a written notice to the accused in substantially the following form:

AVOID MULTIPLE COURT APPEARANCES

If you intend to plead "not guilty" to this charge, or if, in addition, you intend to demand a trial by jury, so notify the clerk of the court at least 10 days (excluding Saturdays, Sundays or holidays) before the day set for your appearance. A new appearance date will be set, and arrangements will be made to have the arresting officer present on that new date. Failure to notify the clerk of either your intention to plead "not guilty" or your intention to demand a jury trial may result in your having to return to court, if you plead "not guilty" on the date originally set for your court appearance.

Upon timely receipt of notice that the accused intends to plead "not guilty," the clerk shall set a new appearance date not less than 7 days nor more than 60 days after the original appearance date set by the arresting officer or the clerk of the circuit court, and notify all parties of the new date and the time for appearance. If the accused demands a trial by jury, the trial shall be scheduled within a reasonable period. In order to invoke the right to a speedy trial, the accused if not in custody must file an appropriate, separate demand, as provided in section 103—5 of the Code of Criminal Procedure of 1963, as amended (725 ILCS 5/103—5). The proper prosecuting attorney shall be served with such separate written demand for speedy trial. If the accused fails to notify the clerk as provided above, the arresting officer's failure to appear on the date originally set for appearance may be considered good cause for a continuance. Any state agency or any unit of local government desiring to be exempt from the requirements of this Rule 505 may apply to the Conference of Chief Circuit Judges for an exemption.

Amended effective October 7, 1970; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended May 24, 1995, effective January 1, 1996; amended Oct. 27, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Committee Comments
(September 18,~~January 1,~~ 2023)

The 7 to 60 days referenced in Rule 505 encompasses the 21-day scheduling requirement, as well as up to 39 additional days for rescheduling.

Section 109-1 of the Code of Criminal Procedure of 1963 (725 ILCS 5/109-1) states as follows:

"(a-1) Law enforcement shall issue a citation in lieu of custodial arrest, upon proper identification, for those accused of traffic and Class B and C criminal misdemeanor offenses, or of petty and business offenses, who pose no obvious threat to the community or any person, or who have no obvious medical or mental health issues that pose a risk to their own safety. Those released on citation shall be *scheduled* into court within 21 days.

(a-3) A person arrested with or without a warrant for an offense for which pretrial release may not be denied may, except as otherwise provided in this Code, be released by the officer without appearing before a judge. The releasing officer shall issue the person a summons to appear within 21 days. A presumption in favor of pretrial release shall be applied by an arresting officer in the exercise of his or her discretion under this Section." (Emphasis added.)

Amended Rule 529

Rule 529. Written Pleas of Guilty in Minor Traffic Offenses

(a) Minor Traffic Offenses. All minor traffic offenses, except those requiring a court appearance under Rule 551 and those that may be satisfied under Rule 531, may be satisfied without a court appearance by a written plea of guilty, including electronic pleas as authorized by the Supreme Court, and payment of an amount equal to the Schedule 12 assessment, as provided in section 15-60 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-60). If the defendant fails to satisfy the charges and fails to appear at the date set for appearance, the court shall address the charges in accordance with Rule 556. Except as provided in paragraph (b) of this Rule 529, no other fines, fees, penalties, assessments, or costs shall be assessed in any case which is disposed of on a written plea of guilty without a court appearance under this Rule 529.

(b) 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 a minor traffic offense 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 an amount equal to the Schedule 12 assessment, as provided in section 15-60 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-60), 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. A traffic safety program provider may be authorized to file a certificate of completion on behalf of the accused; however, it is the responsibility of the accused to ensure that the certificate is timely filed. 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.

(c) 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 under this Rule 529 in accordance with the Schedule 12 assessment, as

provided in section 15-60 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-60).

Amended effective October 7, 1970; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended September 20, 1979, effective October 15, 1979; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended March 27, 1985, effective May 1, 1985; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended December 20, 1991, effective January 1, 1992; amended June 12, 1992, effective July 1, 1992; amended January 20, 1993, effective immediately; amended May 24, 1995, effective January 1, 1996; amended April 1, 1998, effective immediately; amended March 16, 2001, effective immediately; amended December 5, 2003, effective January 1, 2004; amended August 6, 2010, effective September 15, 2010; amended December 7, 2011, effective immediately; amended Dec. 29, 2017, eff. Jan. 1, 2018; amended Mar. 8, 2019, eff. July 1, 2019; amended Dec. 9, 2020, eff. Jan. 1, 2021; amended July 20, 2021, eff. immediately; amended Oct. 27, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Committee Comments

(September 18,~~January 1,~~ 2023)

Committee comments below are retained to memorialize the history of Rule 529 for reference.

(December 5, 2003)

Under present Supreme Court Rule 529 (Fines, Penalties and Costs on Written Pleas of Guilty in Minor Traffic and Conservation Offenses), cash bail is distributed on pleas of guilty, where a court appearance is not required, by deducting applicable costs, including clerk's fees (705 ILCS 105/27/1a, 27.2 or 27.2a, as the case may be), Automation Fee (705 ILCS 105/27.3a), Document Storage Fee (705 ILCS 105/27.3c) and Fee to Finance the Court System (55 ILCS 5/5-110). The balance is then distributed by the clerk to the Traffic and Criminal Conviction Surcharge (TCCS) and LEADS Maintenance Fund (730 ILCS 5/5-9-1(c)), Driver's Education Fund (Driver's Ed) (625 ILCS 5/16-104a), Violent Crime Assistance Fund (VCVA) (725 ILCS 240/10(b)) (VCVA is not assessed in speeding violation cases), Trauma Center Fund (625 ILCS 5/16-104(b)), if applicable, and the entity entitled to receive the fine.

The proposed amendments to Rules 529(a) and 529(b) would exclude electronic pleas and eliminate itemized distribution by the clerk of the funds noted above and, instead, after first deducting the Automation Fee and Document Storage Fee, distribute the bail for traffic offenses along the present line of section 27.6 of the Clerk's of Court Act (705 ILCS 105/27.6) in the following percentages: 44.5% to the entity entitled to receive the fine, 38.675% to the county's general fund, and 16.825% to the state Treasurer. Under Rule 529(b), since conservation offenses are not included under section 27.6, bail would be distributed as follows: 67% to the entity entitled to receive the fine, 16.175% to the county's general fund, and 16.825% to the state Treasurer, which is similar to the current disbursal of these amounts.

The $5 Fee to Finance the Court System (55 ILCS 5/5-1101) is distributed to the county's general fund under the present rule on an itemized basis, and would be included in the 38.675% disbursed to the county's general fund under proposed amended Rule 529(a).

The Court Security Fee (55 ILCS 5/5-1103) is not included either in present Rule 529, or the proposed amendment, since the statute requires a court appearance by the violator before the assessment of this fee.

By way of background, the percentage distribution formula under 705 ILCS 105/27.6 became effective on January 1, 1993, and has been adopted for the assessment of fines, fees, costs and forfeitures in 10 counties throughout the state, including Cook County, for violations of the Vehicle Code.

Supreme Court Rule 526 (Bail Schedules-Traffic Offenses), Rule 527 (Bail Schedule-Conservation Offenses) and Rule 529 (Fines, Penalties and Costs on Written Pleas of Guilty in Minor Traffic and Conservation Offenses), among others, were amended on June 12, 1992, effective July 1, 1992, increasing bail in minor traffic cases from $50 to $75 and from $75 to $95 since the amount of fines received by the municipalities was being reduced by legislative "add-ons."

The committee does not believe Supreme Court Rule 529, in its present form, provides adequate direction to the circuit clerks in the distribution of funds under this rule. For instance, a problem arises in the calculation of the TCCS/LEADS Fund which requires the court to assess an additional penalty of $5 for each $40, or fraction thereof, of fine imposed, and the Driver's Ed Fund and VCVA, which requires the court to assess an additional penalty of $4 for each $40, or fraction thereof, of fine imposed. This, by necessity, involves the use of a multiplier. To arrive at the multiplier, the clerk must divide the fine by 40 when a fine plus costs is assessed, or follow the method prescribed under 730 ILCS 5/5-9-1(c) (TCCS/LEADS Maintenance Fund), 725 ILCS 240/10(b) (VCVA) and 625 ILCS 5/16-104a (Driver's Ed) when the court levies "a gross amount for fine, costs, fees and penalties." The committee concluded that an assessment under Rule 529 was not a "levy of a gross amount."

Under the current rule, the fine is represented as the "balance of the bail," and is the amount remaining after deducting various costs and fees. Therefore, since the court has not assessed a specific fine, the clerk has no exact amount to divide by 40 and is left to reach his or her own conclusion as the correct multiplier. In certain instances if the clerk computes these additional penalties with a multiplier of 1, it results in a fine which is greater that $40; if a multiple of 2 is used, it results in a fine of less than $40.

Chief Justice Benjamin K. Miller, in the Supreme Court's Annual Report to the Legislature dated January 31, 1991, discussed the "plethora of user fees and surcharges enacted by the General Assembly," then concluded that "[t]he complexity of the structure of various charges is such that they are not uniform, and are confusing. It has been impossible for the court system to apply the charge in a consistent and coherent manner."

The Article V Committee agrees, and in order to enhance uniformity and consistency throughout the state in the disbursement of fines, costs, penalties and forfeitures under Rule 529, it recommends a percentage disbursal of funds upon pleas of guilty in traffic and conservation cases which are satisfied without a court appearance by the violator. The committee believes this disbursal, which would be made monthly to all entities, would be fair to all concerned, increase the efficiency of the clerks, and substantially reduce the possibility of error.

As an example of the continuing dilemma facing the circuit clerks, Public Act 93-32, effective

June 20, 2003, directs that an "additional penalty of $4.00 shall be assessed by the court imposing a fine (upon a plea or finding of guilty in all traffic, criminal, conservation and local ordinance cases)." The funds are to be remitted by the circuit clerk to the state Treasurer and deposited in the Traffic and Criminal Surcharge Fund. The committee concluded the additional penalty under this act could not be collected or distributed und Rules 529 and 556 since the total amount of bail was already exhausted by other fines, fees and costs and the act itself provides that the additional penalty "shall not reduce or affect the distribution of any other fine, costs, fees and penalties." The committee felt the only way to obtain the funds required under Public Act 93-32 would be: (1) order the offender to appear in court for the assessment of the $4 additional penalty, or (2) increase the amount of bail under Rule 526. It considered the first option to be counterproductive. As to the second option, the committee noted Justice Heiple's dissent when bail was increased under Rule 526 in 1992. In his dissent, he stated, "[W]hile the original purpose of enacting and enforcing highway traffic laws was public safety, this purpose has, in substantial measure, given way to the purpose of earning bounty revenues of government. Any bail figure, to the extent it exceeds the amount necessary to insure the presence of the defendant in court, in a misuse and abuse of the bail process." The committee, after discussion, is not recommending the increase of bail under Rules 526 and 527.

The committee was also concerned about the 10 counties which distribute gross fines and costs pursuant to 705 ILCS 105/27.6, since this distribution would include money collected by the circuit clerk as a result of forfeiture of bonds, ex parte judgments or guilty pleas pursuant to Rule 529. Public Act 93-32 directs the court to assess an additional penalty; section 27.6 provides that "(f) or offenses subject to this section, judges shall impose one total sum of money payable for violations. The circuit clerk may add on no additional amounts except for amounts that are required by Sections 27.3a and 27.3c of this Act." The inconsistency between the two acts places the circuit clerks in a quandary, particularly in those counties operating under section 27.6.

The committee has recommended the circuit clerks be given a clear and definite direction concerning distribution of funds under this rule and believes the proposed amendment would provide that direction.

Amended Rule 530

Rule 530. Written Pleas of Guilty in Conservation Offenses

(a) Conservation Offenses. Conservation offenses, as defined in section 1-5 of the Criminal and Traffic Assessment Act (705 ILCS 135/1-5) classified as petty, business, class B misdemeanor, or Class C misdemeanor and that do not require a court appearance under Rule 551, may be satisfied without a court appearance by a written plea of guilty, including electronic pleas as authorized by the Supreme Court, and payment of an amount equal to the Schedule 11 assessment, as provided in section 15-55 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-55). If the defendant fails to satisfy the charges and fails to appear at the court appearance, the court shall address the charges in accordance with Rule 556. No other fines, fees, penalties, assessments, or costs shall be assessed in any case that is disposed of on a written plea of guilty without a court appearance under this Rule 530.

(b) 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 530. The clerk of the circuit court shall disburse monies collected under this Rule 530 in accordance with the Schedule 11 assessment, as provided in section 15-55 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-55).

Adopted Mar. 8, 2019, eff. July 1, 2019; amended Dec. 9, 2020, eff. Jan. 1, 2021; amended July 20, 2021, eff. immediately; amended Oct. 27, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Amended Rule 531

Rule 531. Written Pleas of Guilty in Overweight and Permit Offenses

(a) Overweight and Permit Offenses. A charge for 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 5/3-401(d), 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 an amount equal to the Schedule 10.5 assessment, as provided in section 15-52 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-52). If the defendant fails to satisfy the charges and fails to appear at the court appearance, the court shall address the charges in accordance with Rule 556. No other fines, penalties, assessments, or costs shall be assessed in any case that is disposed of on a written plea of guilty without a court appearance under this Rule 531.

(b) 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 531. The clerk of the circuit court shall disburse the fines collected under this Rule 531 in accordance with Sections 15-113 and 16-105 of the Vehicle Code (625 ILCS 5/15-113, 16-105) and shall disburse the assessments collected under this Rule 531 in accordance with the Schedule 10.5 assessment, as provided in section 15-52 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-52).

Adopted Mar. 8, 2019, eff. July 1, 2019; amended Dec. 9, 2020, eff. Jan. 1, 2021; amended July 20, 2021, eff. immediately; amended Oct. 27, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Amended Rule 551

Rule 551. Traffic and Conservation Offenses for Which a Court Appearance is Required

A court appearance, either in person or remote, including by telephone or video conference, is required for:

(a) All alleged major traffic offenses of the Illinois Vehicle Code, as amended (625 ILCS 5/1-100 *et seq.*).

(b) All alleged violations of the following specified sections:

ILCS	Description
625 ILCS 5/3-707	Operating Without Insurance

625 ILCS 5/3-708	Operating When Registration Suspended for Noninsurance
625 ILCS 5/6-101	No Valid Driver's License
625 ILCS 5/6-104	Violation of Classification
625 ILCS 5/6-113	Operating in Violation of Restricted License or Permit
625 ILCS 5/11-1414(a)	Passed School Bus—Loading or Unloading
625 ILCS 5/15-112(g)	Refusal to stop and submit vehicle and load to weighing after being directed to do so by an officer, or removal of load prior to weighing
625 ILCS 5/15-301(j)	Violation of Excess Size or Weight Permit

(c) All alleged violations of the Child Passenger Protection Act, as amended (625 ILCS 25/1 *et seq.*).

(d) Any traffic offense that results in a crash causing the death of any person or injury to any person other than the accused.

(e) Class A conservation offenses identified in subparagraph (b) of Rule 527, or offenses for which civil penalties are required under section 20-35 of the Fish and Aquatic Life Code, as amended (515 ILCS 5/20-35), or section 3.5 of the Wildlife Code, as amended (520 ILCS 5/3.5).

(f) Offenses arising from multiple charges.

(g) Violation of any ordinance of any unit of local government defining offenses comparable to those specified in subparagraphs (a), (b), (c), (d), and (h) of this Rule 551.

(h) Any minor traffic offense where the statutory minimum fine is greater than $95, except those offenses involving truck violations pursuant to Rule 531(a) or similar municipal ordinances.

Amended effective October 7, 1970; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended September 20, 1979, effective October 15, 1979; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended March 27, 1985, effective May 1, 1985; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended December 7, 1990, effective January 1, 1991; amended June 12, 1992, effective July 1, 1992; amended May 24, 1995, effective January 1, 1996; amended March 26, 1996, effective May 1, 1996; amended September 30, 2002, effective immediately; amended August 6, 2010, effective September 15, 2010; amended Dec. 12, 2013, eff. Jan. 1, 2014; amended Mar. 8, 2019, eff. July 1, 2019; amended Sept. 29, 2021, eff. Oct. 1, 2021; amended Oct. 27, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Amended Rule 552

Rule 552. Uniform Tickets—Processing

Uniform Citation and Complaint forms and conservation complaints shall be in forms which may, from time to time, be approved by the Conference of Chief Circuit Judges and filed with this court. The uniform forms shall be adapted for use by municipalities.

The arresting officer shall complete the form or ticket and, within 48 hours after the arrest, shall transmit the portions entitled "Complaint" and, where appropriate, "Disposition Report" and/or "Report of Conviction," either in person, by mail, or electronically where authorized by the Supreme Court, to the clerk of the circuit court of the county in which the violation occurred. A final disposition shall be evidence of the judgment in the case. Upon final disposition of each case, the clerk shall execute a Disposition Report and promptly forward it to the law enforcement agency that issued the ticket. On a plea or finding of guilty in any traffic case, the clerk shall also execute a Report of Conviction, if and as applicable, and such other reports as required by section 6-204 of the Illinois Vehicle Code, as amended (625 ILCS 5/6-204) and promptly forward same to the Secretary of State. This rule does not prohibit the use of electronic or mechanical systems of record keeping, transmitting or reporting.

Amended effective October 7, 1970; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended March 27, 1985, effective May 1, 1985; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended September 30, 2002, effective immediately; amended Dec. 29, 2017, eff. Jan. 1, 2018; amended Sept. 29, 2021, eff. Jan. 1, 2022; amended Oct. 27, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Amended Rule 555

Rule 555. Requirements for Written Plea of Guilty

Written Plea of Guilty. In any case that can be disposed of on a written plea of guilty without a court appearance under Rules 529, 530, or 531 the defendant may submit his or her written plea of guilty and pay the prescribed fines, penalties, assessments, and costs to the clerk of the circuit court of the county in which the violation occurred not earlier than 10 court days after arrest, and not later than 3 court days before the date set for appearance, unless the clerk waives these time limits. A written plea of guilty may be mailed to the clerk of the circuit court of the county in which the violation occurred. A plea of guilty may be transmitted electronically, if authorized by the Supreme Court.

Amended effective October 7, 1970; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended September 30, 2002, effective immediately; amended Dec. 29, 2017, eff. Jan. 1, 2018; amended June 8, 2018, eff. July 1,

2018; amended Mar. 8, 2019, eff. July 1, 2019; amended Oct. 27, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Amended Rule 556

Rule 556. Procedure if Defendant Fails to Appear or Satisfy Charge

(a) Court Appearance Not Required.

(1) If a person accused of an offense that does not require a court appearance under Rule 551 does not satisfy the charge pursuant to Rules 529, 530, or 531 or does not appear on the date set for appearance, or any date to which the case may be continued, the court may enter an *ex parte* judgment of conviction imposing a single assessment, specified in the applicable assessment Schedule 10, 10.5, or 11 for the charged offense, as provided in the Criminal and Traffic Assessment Act (705 ILCS 135/1 *et seq.*), plus the minimum fine allowed by statute. If the defendant submits payment for an offense under Rule 529, 530, or 531 but fails to execute the required plea of guilty, the court may enter an *ex parte* judgment against the defendant but may elect to impose only the assessment applicable under Rule 529, 530, 531. Payment received for fines, penalties, assessments, and costs assessed following the entry of an *ex parte* judgment shall be disbursed by the clerk pursuant to the schedule assessed under the Criminal and Traffic Assessment Act (705 ILCS 135/1 *et seq.*) and any other applicable statute. The clerk of the court shall notify the Secretary of State of the conviction pursuant to Rule 552.

(2) In all cases in which a court appearance is not required under Rule 551, the defendant shall be provided with a statement, in substantially the following form, on the "Complaint":

"If you do not satisfy the charge against you prior to the date set for appearance or if you fail to appear in court when required, you consent to the entry of a judgment against you in the amount of all applicable fines, penalties, assessments, and costs."

(b) Court appearance required.

The following statement(s) shall appear on the charging document in the event a warrant or *ex parte* judgment is sought by the prosecuting entity:

(1) A statement that an *ex parte* judgment may be entered for offenses punishable by fine only in the event the person fails to appear in court or answer the charge made on the date set for the defendant's court appearance or any date to which the case is continued. The statement must also contain the specific amount of any *ex parte* judgment.

(2) A statement that an arrest warrant may issue if the defendant fails to appear at any hearing.

(3) A statement that a violator may be tried and sentenced *in absentia* for offenses punishable by a term of imprisonment of less than one year and a judgment entered on the charge.

Amended effective October 7, 1970; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended December 7, 1990,

effective January 1, 1991; amended May 24, 1995, effective January 1, 1996; amended October 22, 1999, effective December 1, 1999; amended December 5, 2003, effective January 1, 2004; amended December 30, 2014, eff. Jan. 1, 2015; amended June 8, 2018, eff. July 1, 2018; amended Dec. 10, 2018, eff. Jan. 1, 2019; amended Mar. 8, 2019, eff. July 1, 2019; amended June 9, 2020, eff. July 1, 2020; amended July 20, 2021, eff. July 1, 2021, *nunc pro tunc*; amended Oct. 27, 2022, ~~eff. Jan. 1, 2023~~Sept. 18, 2023.

Committee Comments
(September 18, ~~January 1,~~ 2023)

Committee comments below are retained to memorialize the history of Rule 556 for reference.

(December 10, 2018)

Effective January 1, 2019, Rule 501(g) no longer requires that a promise to comply be written.

(June 8, 2018)

"For a fine only offense where the minimum statutory fine is greater than the cash bail amount, the fines, penalties, and costs assessed shall be equal to the minimum statutory fine in whole dollars" language was added to eliminate conflicts between bail amounts that are not equal to minimum statutory fines; if a prosecuting agency agrees to an *ex parte* judgment, defendants are being assessed widely differing fine amounts. For example, violations of operating without insurance (625 ILCS 5/3-707) require bail of $2000 under Rule 526(d). However, the statute states "a person shall be required to pay a fine in excess of $500, but not more than $1,000." Defendants were being assessed fines in various amounts, and in some cases, defendants that did not appear in court and the court entered an *ex parte* judgment paid a lower fine than a defendant that appeared in court as required by the Rule. A variety of fine amounts were being assessed, such as: a fine of $200 (10% of the bail amount), a fine of $500.01 or $501 under statute, a fine of $1000 under statute, or a fine of $2,000—the full bail amount under Rule 526(d). These amendments are meant to eliminate varying fine amounts being assessed to defendants. When the minimum statutory fine is "in excess of" or "more than" a specified amount, the court should assess the fine to the next whole dollar amount.

(December 5, 2003)

Supreme Court Rule 556 ("Procedure if Defendant Fails to Appear") delineates several procedures if the defendant fails to appear after depositing a driver's license in lieu of bond, executes a written promise to comply, posts bond or issued a notice to appear.

The rule provided that the court may "enter an *ex parte* judgment of conviction against any accused charged with an offense punishable by a fine only and in so doing shall assess fines, penalties and costs in an amount not to exceed the cash bail required by this article." Rule 556 does not detail the specific costs and penalties, or their amounts, in the entry of *ex parte* judgments. The clerk is then left with deciding which costs, fees and additional penalties (and their amounts) should be applied. This is currently being determined on a county by county basis.

The committee concluded that distribution under Rule 556 was not a "levy of a gross amount." See Rule 529, Committee Comments.

The committee believes that consistency and uniformity in disbursing funds from *ex parte* judgments was of the utmost importance in the efficient administration of justice and recommends that the fines, penalties, and costs assessed be equal to bail, and the distribution of those amounts should be pursuant to Supreme Court Rule 529(a). The State's Attorney fee, if any, would be included within the county's 38.675% distribution.

Amended Rule 570

Rule 570. Applicability

Rules 570 through 579 are applicable to the prosecution, through the judicial system, of violations of ordinances passed pursuant to section 5-1113 of the Counties Code (55 ILCS 5/5-1113), section 1-2-1 of the Illinois Municipal Code (65 ILCS 5/1-2-1), and section 11-1301 of the Illinois Vehicle Code (625 ILCS 5/11-1301) or home rule authority for which the penalty does not include the possibility of a jail term. These rules shall not apply to administrative adjudications. These rules shall not apply to traffic or conservation offenses as defined in Rule 501.

Adopted December 7, 2011, effective immediately; amended Oct. 27, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Committee Comment
(December 7, 2011)

Rules 570 through 579 apply to the prosecution of ordinance violations not punishable by a jail term and other than traffic and conservation offenses. These rules also apply to parking offenses. Violations of ordinances punishable by a jail term are to be prosecuted in accordance with the rules of criminal procedure. 65 ILCS 5/1-2-1.1. Nothing in these rules is intended to limit the ability to proceed through an administrative process or other alternative methods of resolving ordinance violations.

Rule 570 establishes the applicability of the ordinance violation prosecutions which are prosecuted through the judicial system to ordinances passed pursuant to the Counties Code (55 ILCS 5/5-1113 (ordinance and rules to execute powers; limitations on punishments)), the Illinois Municipal Code (65 ILCS 5/1-3-1 (ordinances and rules; fines or penalties; limitations on punishment)), and home rule authority where the penalty does not include jail time.

Rule 570 would exclude from these rules ordinance violations heard by the administrative adjudication process.

Amended Rule 572

Rule 572. Form of Charging Document.

(a) A prosecution for an ordinance violation for which the penalty does not include the possibility of a jail term may be initiated by a charging document such as a Notice to Appear, Uniform Citation and Complaint Form, Ticket, or Complaint that meets the requirements set forth in Rules 10 and 552. If initiated by uniform citation approved by the Conference of Chief Circuit

Judges, the uniform citation shall be signed by the peace officer or a code enforcement officer authorized by the plaintiff to sign the charging document, which shall be processed as provided in Rule 552. Any other form of charging document shall be signed by the prosecuting attorney and be verified as provided in section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109). Such charging document or combination of documents shall contain at least the following:

1. The name of the prosecuting entity;

2. The name of the defendant and his or her address, if known;

3. The nature of the offense and a reference to the relevant ordinance;

4. A statement whether the defendant is required to appear in court and, if so, the date, time and place of appearance;

5. If applicable, the steps the defendant can take to avoid an otherwise required appearance; and

6. A statement that the defendant may demand a jury trial by filing a jury demand and paying a jury demand fee when entering his or her appearance, plea, answer to the charge, or other responsive pleading.

(b) The following statement(s) shall also appear on the charging document or combination of documents listed in (a) above in the event a warrant or default judgment will be sought by the prosecuting entity:

1. A statement that a default judgment may be entered in the event the person fails to appear in court or answer the charge made on the date set for the defendant's court appearance or any date to which the case is continued. The statement must also contain the specific amount of any default judgment.

2. A statement that an arrest warrant may issue if the defendant fails to appear at any hearing.

(c) Multiple Violations. Multiple violations of automobile parking offenses may be contained in a single count. Violations of the same offense occurring on different days, or violations of ordinances which carry a per day fine, may be stated in one count even though each violation or day upon which a violation occurs carries a separate fine. Such separate violations and fines must be clearly stated.

(d) Prayer for Relief. It shall be sufficient for the prosecuting entity to generally pray for a penalty range between the minimum and maximum penalties authorized by the corporate authorities of the prosecuting entity.

(e) Amendments. The charging document may be amended at any time, before or after judgment, to conform the pleadings to the proofs on just and reasonable terms. However, the amount of any default judgment appearing on the charging document under Rule 572(b) may not be amended after the entry of such judgment, without notice to defendant.

Adopted December 7, 2011, effective immediately; amended Oct. 27, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Committee Comment

(December 7, 2011)

Many prosecuting entities have created hybrid complaints that serve both as notice to appear and the charging document itself, similar to a traffic citation. Since an ordinance violation prosecution incorporates aspects of both criminal and civil procedures, the more general term "charging document" phrase is used.

(a) Rule 572 is intended to provide flexibility in the initiation of an ordinance violation prosecution.

The Municipal Code states that "the first process shall be a summons or a warrant." 65 ILCS 5/1-2-9.

Many prosecuting entities, however, begin with a "Notice to Appear" which is provided for in the Code of Criminal Procedure, 725 ILCS 5/1 07-12: (a) Whenever a peace officer is authorized to arrest a person without a warrant he may instead issue to such a person a notice to appear *** (c) Upon failure of the person to appear a summons or warrant of arrest may issue." A notice to appear "is a means by which a person may be brought before the court without the inconvenience of immediate arrest ***. Such a notice may be issued whenever a peace officer has probable cause to make a warrantless arrest." *People v. Warren*, 173 Ill. 2d 348, 357 (1996).

The purpose of this rule is to continue to allow prosecuting entities to utilize the most efficient means of initiating ordinance violation proceedings. "Notices to Appear" are an appropriate and reasonable means of informing defendants of charges against them and are similar to citations issued in traffic cases.

This does not prohibit a prosecuting entity from obtaining an arrest warrant based upon probable cause, as authorized in section 1-2-9 of the Municipal Code (65 ILCS 5/1-2-9).

This rule also makes it clear that an attorney need not sign the charging document in every case. This is especially important where the process is initiated by a nonattorney such as a police officer or code enforcement officer.

(b) This section provides for issuance of default judgments or warrants upon a failure to appear.

(c) This is intended to minimize paperwork and codify the decision in *Village of Oak Park v. Flanagan,* 35 Ill. App. 3d 6 (1st Dist. 1975). The Village of Oak Park case involved prosecution for multiple parking tickets in which the court held that a computer printout was sufficient to comply with the requirements of pleading for ordinance violations. Note, however, this rule is not meant to contravene the one act, one crime rule identified in *Village of Sugar Grove v. James Rich,* 347 Ill. App. 3d 689 (1st Dist. 2004).

(d) Section 2-604 of the Code of Civil Procedure requires a "specific" prayer for relief. 735 ILCS 5/2-604. This paragraph is intended to make it clear that a prayer for a penalty within the penalty range authorized by the ordinance is sufficiently specific to advise the defendant of the maximum penalty to which they are exposed.

(e) Section 2-616(a) of the Code of Civil Procedure specifically permits amendments to civil pleadings at various times. 735 ILCS 5/2-616(a). The purpose is to avoid minor errors in the charging document being a cause of a finding of not guilty when a violation has been proved by the requisite proof. The last sentence enforces the requirement of Rule 572(b) that if the

prosecuting entity will seek a default judgment, it must state the specific amount in the charging document or combination of documents served upon the defendant.

Amended Rule 585

Rule 585. Applicability

Rules 585 through 590 are applicable to civil law violations, pursuant to section 4(a) of the Cannabis Control Act (720 ILCS 550/4 (a)).

Adopted Sept. 1, 2016, eff. immediately; amended June 9, 2020, eff. July 1, 2020; amended Oct. 27, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Committee Comments
(September 18,~~January 1,~~ 2023)

Committee comments below are retained to memorialize the history of Rule 585 for reference.

(Revised June 9, 2020)

Rules 585 through 590 apply to civil law violations pursuant to section 4(a) of the Cannabis Control Act (720 ILCS 550/4 (a)), which are punishable by a fine only. Nothing in these rules is intended to limit the ability to proceed through an administrative process or other alternative methods of resolving ordinance violations for similar offenses.

Rules 503 and 551, regarding multiple charges under these rules, do not apply to Civil Law Violations or if a citation is written in conjunction with another violation.

Rule 585 excludes from these rules ordinance violations heard by the administrative adjudication process.

Amended Rule 589

Rule 589. Uniform Civil Law Citations—Processing

Uniform Civil Law Citation forms shall be in a form, which may from time to time be approved by the Conference of Chief Circuit Judges and filed with this court. The uniform form shall be adapted for use by municipalities. The law enforcement officer shall complete the form or citation and, within 48 hours after the issuance, shall transmit the portions entitled "Complaint" and "Disposition Report," either in person or by mail, to the clerk of the circuit court of the county in which the violation occurred. Each Uniform Civil Law Citation form shall, upon receipt by the clerk, be assigned a separate case number, numbered chronologically. A final disposition noted on the reverse side of the "Complaint" shall be evidence of the judgment in the case. Upon final disposition of each case, the clerk shall execute the "Disposition Report" and promptly forward it to the law enforcement agency that issued the citation. This rule does not prohibit the use of electronic or mechanical systems of record keeping, transmitting, or reporting.

Adopted Sept. 1, 2016, eff. immediately; amended Sept. 29, 2021, eff. Jan. 1, 2022; amended Oct. 27, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Amended Rule 604

Rule 604. Appeals from Certain Judgments and Orders

(a) Appeals by the State.

(1) *When State May Appeal.* In criminal cases the State may appeal only from an order or judgment the substantive effect of which results in dismissing a charge for any of the grounds enumerated in section 114-1 of the Code of Criminal Procedure of 1963; arresting judgment because of a defective indictment, information or complaint; quashing an arrest or search warrant; suppressing evidence; from an order imposing conditions of pretrial release; from an order denying a petition to deny pretrial release; or from an order denying a petition to revoke pretrial release.

(2) *Leave to Appeal by State.* The State may petition for leave to appeal under Rule 315(a).

(3) *Release of Defendant Pending Appeal.* A defendant shall not be held in jail or to bail during the pendency of an appeal by the State, or of a petition or appeal by the State under Rule 315(a), unless there are compelling reasons for his or her continued detention or being held to bail.

(4) *Time Appeal Pending Not Counted.* The time during which an appeal by the State is pending is not counted for the purpose of determining whether an accused is entitled to discharge under section 103-5 of the Code of Criminal Procedure of 1963.

(b) Appeals When Defendant Placed Under Supervision or Sentenced to Probation, Conditional Discharge or Periodic Imprisonment. A defendant who has been placed under supervision or found guilty and sentenced to probation or conditional discharge (see 730 ILCS 5/5-6-1 through 5-6-4), or to periodic imprisonment (see 730 ILCS 5/5-7-1 through 5-7-8), may appeal from the judgment and may seek review of the conditions of supervision, or of the finding of guilt or the conditions of the sentence, or both. He or she may also appeal from an order modifying the conditions of or revoking such an order or sentence.

(c) Appeals by Defendant Before Conviction From Bail Orders Entered Until the Effective Date of the Pretrial Fairness Act.

(1) *Appealability of Order With Respect to Bail.* Before conviction a defendant may appeal to the Appellate Court from an order setting, modifying, revoking, denying, or refusing to modify bail or the conditions thereof. As a prerequisite to appeal the defendant shall first present to the trial court a written motion for the relief to be sought on appeal. The motion shall be verified by the defendant and shall state the following:

(i) the defendant's financial condition;

(ii) his or her residence addresses and employment history for the past 10 years;

(iii)his or her occupation and the name and address of his or her employer, if he or she is employed, or his or her school, if he or she is in school;

(iv) his or her family situation; and

(v) any prior criminal record and any other relevant facts.

If the order is entered upon motion of the prosecution, the defendant's verified answer to the motion shall contain the foregoing information.

(2) *Procedure.* The appeal may be taken at any time before conviction by filing a verified motion for review in the Appellate Court. The motion for review shall be accompanied by a verified copy of the motion or answer filed in the trial court and shall state the following:

(i) the court that entered the order;

(ii) the date of the order;

(iii) the crime or crimes charged;

(iv) the amount and condition of bail;

(v) the arguments supporting the motion; and

(vi) the relief sought.

No brief shall be filed. The motion shall be served upon the opposing party. The State may promptly file an answer.

(3) *Disposition.* Upon receipt of the motion, the clerk shall immediately notify the opposing party by telephone of the filing of the motion, entering the date and time of the notification on the docket, and promptly thereafter present the motion to the court.

(4) *Report of Proceedings.* The court, on its own motion or on the motion of any party, may order court reporting personnel as defined in Rule 46 to file in the Appellate Court a report of all proceedings had in the trial court on the question of bail.

(5) *No Oral Argument.* No oral argument shall be permitted except when ordered on the court's own motion.

(d) Appeal by Defendant From a Judgment Entered Upon a Plea of Guilty. No appeal from a judgment entered upon a plea of guilty shall be taken unless the defendant, within 30 days of the date on which sentence is imposed, files in the trial court a motion to reconsider the sentence, if only the sentence is being challenged, or, if the plea is being challenged, a motion to withdraw the plea of guilty and vacate the judgment.

No appeal shall be taken upon a negotiated plea of guilty challenging the sentence as excessive unless the defendant, within 30 days of the imposition of sentence, files a motion to withdraw the plea of guilty and vacate the judgment. For purposes of this rule, a negotiated plea of guilty is one in which the prosecution has bound itself to recommend a specific sentence, or a specific range of sentence, or where the prosecution has made concessions relating to the sentence to be imposed and not merely to the charge or charges then pending.

The motion shall be in writing and shall state the grounds therefor. When the motion is based on facts that do not appear of record it shall be supported by affidavit unless the defendant is filing the motion *pro se* from a correctional institution, in which case the defendant may submit, in lieu of an affidavit, a certification as provided in section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109). The motion shall be presented promptly to the trial judge by whom the defendant was sentenced, and if that judge is then not sitting in the court in which the judgment was entered,

then to the chief judge of the circuit, or to such other judge as the chief judge shall designate. The trial court shall then determine whether the defendant is represented by counsel, and if the defendant is indigent and desires counsel, the trial court shall appoint counsel.

If the defendant is indigent, the trial court shall order a copy of the transcript as provided in Rule 402(e) be furnished the defendant without cost. The defendant's attorney shall file with the trial court a certificate stating that the attorney has consulted with the defendant either by phone, mail, electronic means or in person to ascertain defendant's contentions of error in the sentence and the entry of the plea of guilty, has examined the trial court file and both the report of proceedings of the plea of guilty and the report of proceedings in the sentencing hearing, and has made any amendments to the motion necessary for adequate presentation of any defects in those proceedings.

The motion shall be heard promptly, and if allowed, the trial court shall modify the sentence or vacate the judgment and permit the defendant to withdraw the plea of guilty and plead anew. If the motion is denied, a notice of appeal from the judgment and sentence shall be filed within the time allowed in Rule 606, measured from the date of entry of the order denying the motion. Upon appeal any issue not raised by the defendant in the motion to reconsider the sentence or withdraw the plea of guilty and vacate the judgment shall be deemed waived.

The certificate of counsel shall be prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article VI Forms Appendix.

(e) Appeal From an Order Finding Defendant Unfit to Stand Trial or Be Sentenced. The defendant or the State may appeal to the Appellate Court from an order holding the defendant unfit to stand trial or be sentenced.

(f) Appeal by Defendant on Grounds of Former Jeopardy. The defendant may appeal to the Appellate Court the denial of a motion to dismiss a criminal proceeding on grounds of former jeopardy.

(g) Appeal From an Order Granting a Motion to Disqualify Defense Counsel. The defendant may petition for leave to appeal to the Appellate Court from an order of the circuit court granting a motion to disqualify the attorney for the defendant based on a conflict of interest. The procedure for bringing interlocutory appeals pursuant to this subpart shall be the same as set forth in Supreme Court Rule 306(c).

(h) Appeals From Orders Under the Pretrial Fairness Act Imposing Conditions of Pretrial Release, Granting or Denying a Petition to Deny Pretrial Release, or Revoking or Refusing to Revoke Pretrial Release.

(1) *Orders Appealable.* An appeal may be taken to the Appellate Court from an interlocutory order of court entered under sections 110-5, 110-6, and 110-6.1 of the Pretrial Fairness Act as follows:

(i) by the State and by the defendant from an order imposing conditions of pretrial release;

(ii) by the defendant from an order revoking pretrial release or by the State from an order denying a petition to revoke pretrial release;

(iii) by the defendant from an order denying pretrial release; or

(iv) by the State from an order denying a petition to deny pretrial release.

(2) *Notice of Appeal; Time; Docketing Statement; Legal Memoranda; Service; Record; Fee.* Review shall be by Notice of Appeal filed in the circuit court within 14 days of the entry or denial of the order from which review is being sought. The Notice of Appeal shall describe the relief requested and the grounds for the relief requested. A docketing statement is not required to be filed by the appellant. The appellant may file, but is not required to file, a memorandum not exceeding 4500 words, within 21 days of filing of the Rule 328 supporting record. The response to the Notice of Appeal or appellant's memorandum may include a memorandum not to exceed 4500 words. The response shall be filed within 21 days of the time for filing the appellant's memorandum. The Notice of Appeal and any accompanying memoranda and response shall be filed in the Appellate Court, with proof of personal or e-mail service as provided in Rule 11. Replies and extensions of time will be allowed only by order of court for good cause shown. Within 30 days of the filing of the Notice of Appeal, the appellant shall also file:

(i) A Rule 328 supporting record, which shall include the Notice of Appeal, the order appealed from, and supporting documents or matters of record necessary to the appeal. The supporting record must be authenticated by the certificate of the clerk of the circuit court or by the affidavit of the attorney or party filing it. If the defendant is represented by court-appointed counsel, the clerk of the reviewing court shall docket the appeal and accept documents for filing without the payment of fees. Any supplemental supporting record filed by the appellee must accompany the response and be authenticated according to Rule 328. Motions for extension of time are disfavored and will only be granted by order of court for good cause shown.

(3) *Report of Proceedings.* The court reporting personnel, as defined in Rule 46, shall certify and file a report of all proceedings on the questions of the conditions of pretrial release, pretrial release or pretrial detention, or revocation of pretrial release had in the circuit court with the clerk of circuit court within 21 days of the filing of the Notice of Appeal. When the proceedings were recorded by means of audiovisual communication or other electronic recording system that includes audio only, the court reporting personnel shall certify and file the recording as the report of proceedings for purposes of the appeal. If a court reporter transcribes the proceedings, nothing prohibits the transcriptions from also being filed with the clerk of the circuit court and a copy transmitted to a defendant whom the circuit court finds indigent. The clerk of the circuit court shall file the report of proceedings with the clerk of the reviewing court within 30 days of the filing of the Notice of Appeal.

(4) The clerk of the circuit court shall provide only one free copy of the report of proceedings to the indigent defendant.

(5) *Time for Decision; Oral Argument.* After the appellant has filed the Notice of Appeal, supporting record, and any memorandum and the time for filing any response and memorandum has expired, the Appellate Court shall consider and decide the appeal within 14 days, except the court may extend the deadline for good cause. Oral argument will not be heard, except on the court's motion.

(6) *Jurisdiction of the Circuit Court.* The circuit court shall retain jurisdiction to proceed

with the case during the pendency of any appeal from an order entered pursuant to sections 110-5,110-6, and 110-6.1 of the Pretrial Fairness Act.

Amended effective July 1, 1969; amended October 21, 1969, effective January 1, 1970; amended effective October 1, 1970, July 1, 1971, November 30, 1972, September 1, 1974, and July 1, 1975; amended February 19, 1982, effective April 1, 1982; amended June 15, 1982, effective July 1, 1982; amended August 9, 1983, effective October 1, 1983; amended April 1, 1992, effective August 1, 1992; amended October 5, 2000, effective November 1, 2000; amended February 1, 2005, effective immediately; amended December 13, 2005, effective immediately; amended February 10, 2006, effective July 1, 2006; amended Nov. 28, 2012, eff. Jan. 1, 2013; amended Feb. 6, 2013, eff. immediately; amended Dec. 11, 2014, eff. immediately; amended Dec. 3, 2015, eff. immediately; amended March 8, 2016, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended Dec. 23, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Committee Comment
(February 10, 2006)

Paragraph (g)

Paragraph (g) permits interlocutory review of certain attorney disqualification orders but does not change attorney disqualification law. The circuit court still has discretion to accept or reject a defendant's conflict of interest waiver, based on consideration of the interests identified in People v. Ortega, 209 Ill. 2d 354 (2004).

Committee Comments
(February 1, 2005)

The language in paragraph (a) allowing interlocutory appeals from orders decertifying a prosecution as a capital case or finding the defendant to be mentally retarded provides for the kinds of appeals contemplated by section 9–1(h-5) of the Criminal Code of 1961 (720 ILCS 5/9–1(h-5)) and section 114–15(f) of the Code of Criminal Procedure of 1963 (725 ILCS 5/114–15(f)).

Committee Comments
(Revised July 1, 1975)

Rule 604 was amended in September 1969 to add paragraph (b), dealing with appeals when probation has been granted. The 1969 amendment made what was formerly the entirety of Rule 604 into paragraph (a) and made an appropriate change in the title of the rule.

Paragraph (a)

Subparagraph (1) of paragraph (a) is former Rule 27(4), as it existed until January 1, 1967, with slight changes in language. (Rule 27(4) was derived from sections 121-1 and 120-2 of the Code.) The rule makes it clear that an order dismissing an indictment, information or complaint for any of the grounds enumerated in section 114-1 of the Code is appealable.

Subparagraph (2) was added by amendment effective November 30, 1972.

Subparagraph (3) is former section 120-3(a) of the Code without change.

Subparagraph (4) is section 120-3(b) of the Code without change.

Paragraph (b)

Paragraph (b) is based upon sections 117-1(d) and 117-3(e) of the Code and is included in the rule in conformity with the policy of covering all appeals in the supreme court rules, as contemplated by the judicial article of the Constitution. (Ill. Const., art. VI, §16.) Paragraph (b) was amended in 1974 to cover conditional discharge and periodic imprisonment, new forms of sentence created by the adoption in Illinois of the Unified Code of Corrections.

Paragraph (c)

Paragraph (c) was added in 1971 to establish a procedure for appeals from orders in criminal cases concerning bail. Prior to its adoption, the only avenue of relief was an original petition to the Supreme Court for a writ of *habeas corpus*. Subparagraph (c)(2) was amended in 1974 to provide that the State may file an answer.

Paragraph (d)

Paragraph (d), added in 1975, provides that before a defendant may file a notice of appeal from a judgment entered on his plea of guilty, he must move in the trial court to vacate the judgment and withdraw his plea. Issues not raised in such a motion are waived. The time within which an appeal may be taken runs from the date on which the order disposing of the motion is entered. Provision is made for appointment of counsel and provision of a free transcript of the proceedings, which, under Rule 402(e), are required to be transcribed, filed, and made a part of the common law record.

Amended Rule 605

Rule 605. Advice to Defendant

(a) On Judgment and Sentence After Plea of Not Guilty.

(1) In all cases in which the defendant is found guilty and sentenced to imprisonment, probation or conditional discharge, periodic imprisonment, or to pay a fine, or in which a sentence of probation or conditional discharge has been revoked or the conditions attached to such a sentence have been modified, excluding cases in which the judgment and sentence are entered on a plea of guilty, the trial court shall, at the time of imposing sentence or modifying the conditions of the sentence, advise the defendant of the right to appeal, of the right to request the clerk to prepare and file a notice of appeal, and of the right, if indigent, to be furnished, without cost to the defendant , with a transcript of the proceedings at the trial or hearing.

(2) In addition to the foregoing rights, in cases in which the defendant has been convicted of a felony or a Class A misdemeanor or convicted of a lesser offense and sentenced to imprisonment, periodic imprisonment, or to probation or conditional discharge conditioned upon periodic imprisonment, or in which a sentence of probation or conditional discharge has

been revoked or the conditions attached to such a sentence have been modified and a sentence or condition of imprisonment or periodic imprisonment imposed, the trial court shall advise the defendant of the right to have counsel appointed on appeal.

(3) At the time of imposing sentence or modifying the conditions of the sentence, the trial court shall also advise the defendant as follows:

A. that the right to appeal the judgment of conviction, excluding the sentence imposed or modified, will be preserved only if a notice of appeal is filed in the trial court within thirty (30) days from the date on which sentence is imposed;

B. that prior to taking an appeal, if the defendant seeks to challenge the correctness of the sentence, or any aspect of the sentencing hearing, the defendant must file in the trial court within 30 days of the date on which sentence is imposed a written motion asking to have the trial court reconsider the sentence imposed, or consider any challenges to the sentencing hearing, setting forth in the motion all issues or claims of error regarding the sentence imposed or the sentencing hearing;

C. that any issue or claim of error regarding the sentence imposed or any aspect of the sentencing hearing not raised in the written motion shall be deemed waived; and

D. that in order to preserve the right to appeal following the disposition of the motion to reconsider sentence, or any challenges regarding the sentencing hearing, the defendant must file a notice of appeal in the trial court within 30 days from the entry of the order disposing of the defendant's motion to reconsider sentence or order disposing of any challenges to the sentencing hearing.

(b) On Judgment and Sentence Entered on a Plea of Guilty. In all cases in which a judgment is entered upon a plea of guilty, other than a negotiated plea of guilty, at the time of imposing sentence, the trial court shall advise the defendant substantially as follows:

(1) that the defendant has a right to appeal;

(2) that prior to taking an appeal the defendant must file in the trial court, within 30 days of the date on which sentence is imposed, a written motion asking to have the trial court reconsider the sentence or to have the judgment vacated and for leave to withdraw the plea of guilty, setting forth the grounds for the motion;

(3) that if the motion is allowed, the sentence will be modified or the plea of guilty, sentence and judgment will be vacated and a trial date will be set on the charges to which the plea of guilty was made;

(4) that upon the request of the State any charges that may have been dismissed as a part of a plea agreement will be reinstated and will also be set for trial;

(5) that if the defendant is indigent, a copy of the transcript of the proceedings at the time of the defendant's plea of guilty and sentence will be provided without cost to the defendant and counsel will be appointed to assist the defendant with the preparation of the motions; and

(6) that in any appeal taken from the judgment on the plea of guilty any issue or claim of error not raised in the motion to reconsider the sentence or to vacate the judgment and to withdraw the plea of guilty shall be deemed waived.

For the purposes of this rule, a negotiated plea is one in which the prosecution has bound itself

to recommend a specific sentence, or a specific range of sentence, or where the prosecution has made concessions relating to the sentence to be imposed and not merely to the charge or charges then pending.

(c) On Judgment and Sentence Entered on a Negotiated Plea of Guilty. In all cases in which a judgment is entered upon a negotiated plea of guilty, at the time of imposing sentence, the trial court shall advise the defendant substantially as follows:

(1) that the defendant has a right to appeal;

(2) that prior to taking an appeal the defendant must file in the trial court, within 30 days of the date on which sentence is imposed, a written motion asking to have the judgment vacated and for leave to withdraw the plea of guilty, setting forth the grounds for the motion;

(3) that if the motion is allowed, the plea of guilty, sentence and judgment will be vacated and a trial date will be set on the charges to which the plea of guilty was made;

(4) that upon the request of the State any charges that may have been dismissed as a part of a plea agreement will be reinstated and will also be set for trial;

(5) that if the defendant is indigent, a copy of the transcript of the proceedings at the time of the defendant's plea of guilty and sentence will be provided without cost to the defendant and counsel will be appointed to assist the defendant with the preparation of the motions; and

(6) that in any appeal taken from the judgment on the plea of guilty any issue or claim of error not raised in the motion to vacate the judgment and to withdraw the plea of guilty shall be deemed waived.

For the purposes of this rule, a negotiated plea is one in which the prosecution has bound itself to recommend a specific sentence, or a specific range of sentence, or where the prosecution has made concessions relating to the sentence to be imposed and not merely to the charge or charges then pending.

(d) On Entry of an Order Under the Pretrial Fairness Act Imposing Conditions of Pretrial Release, Granting a Petition to Deny Pretrial Release, or Revoking Pretrial Release. In all cases in which an order is issued imposing conditions of pretrial release, granting the State's petition to deny pretrial release, or revoking a defendant's pretrial release under the Pretrial Fairness Act, at the time of issuing the order, the circuit court shall advise the defendant substantially as follows:

(1) that the defendant has a right to appeal and, if indigent, to be furnished, without cost to the defendant, with a transcript or audiovisual communication or other electronic recording of the proceedings of the hearing;

(2) that the defendant, if indigent, has the right to have counsel appointed on appeal; and

(3) that the right to appeal the order will be preserved only if a Notice of Appeal under Rule 604(h) is filed in the circuit court within 14 days from the date on which the order is entered.

Amended June 22, 1967, effective June 23, 1967; amended June 26, 1970, effective September 1, 1970; amended effective July 1, 1971, September 1, 1974, and July 1, 1975; amended April 1, 1992, effective August 1, 1992; amended October 5, 2000, effective November 1, 2000; amended October 1, 2001,

effective immediately; amended Dec. 23, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Committee Comments
(Revised July 1, 1975)

This rule is derived from former Rule 27(6), as it existed before 1967, which in turn was derived from section 121-4(c) of the Code of Criminal Procedure. In 1967 the requirement that the stenographic transcript of the court's advice to the defendant and the defendant's answers be filed as a part of the common-law record was transferred to Rule 401, and the last sentence of the former rule was transferred to Rule 606(a).

This rule was amended in June, 1970, to add the last sentence, which requires the trial court to advise the defendant of the time within which his notice of appeal must be filed in order to preserve his right to appeal. See Rule 651(b) for a comparable provision.

The 1971 amendments remove the requirement that the court advise of their various rights defendants who plead guilty. They also extended the requirement that the advice be given in all cases, including misdemeanor cases, in which the defendant was convicted of an offense punishable by imprisonment for more than six months. In thus extending the requirement these amendments conformed the rule to the provisions of Rule 607, as amended the same year, dealing with the rights of indigents to appointed counsel and a report of proceedings. (See Committee Comments to that rule.) In 1974, Rule 607 was again amended to provide for a free transcript in all cases in which the defendant has been convicted and sentenced. Under the amended rule, however, the right to appointment of counsel is limited to cases in which the offense was a felony or a Class A misdemeanor, or in which the sentence involves some imprisonment, whether imposed as a sentence or as a condition to a sentence of probation or conditional discharge. This rule was again amended to conform its provisions with those of Rule 607. The language of both rules was changed to conform with the language of the Unified Code of Corrections.

In 1975, Rule 604(d) was added to provide that before appealing a judgment and sentence entered on a plea of guilty, the defendant must move in the trial court for vacation of the judgment and to withdraw the plea of guilty. Rule 605 was amended to designate the matter then contained in the rule as paragraph (a), and to add new paragraph (b), providing that on imposition of sentence the defendant shall be advised of the requirements of Rule 604(d).

Amended Rule 606

Rule 606. Perfection of Appeal.

(a) How Perfected. Appeals shall be perfected by filing a notice of appeal with the clerk of the trial court. The notice may be signed by the appellant or his attorney. If the defendant so requests in open court at the time he is advised of his right to appeal or subsequently in writing, the clerk of the trial court shall prepare, sign, and file forthwith a notice of appeal for the defendant. No step in the perfection of the appeal other than the filing of the notice of appeal is jurisdictional.

(b) Time. Except as provided in Rule 604(d) and 604(h), the notice of appeal must be filed with the clerk of the circuit court within 30 days after the entry of the final judgment appealed from or if a motion directed against the judgment is timely filed, within 30 days after the entry of

the order disposing of the motion.

When a timely posttrial or postsentencing motion directed against the judgment has been filed by counsel or by defendant, if not represented by counsel, any notice of appeal filed before the entry of the order disposing of all pending postjudgment motions shall have no effect and shall be stricken by the trial court.

Upon striking the notice of appeal, the trial court shall forward to the appellate court within 5 days a copy of the order striking the notice of appeal, showing by whom it was filed and the date on which it was filed. This rule applies whether the timely postjudgment motion was filed before or after the date on which the notice of appeal was filed.

A new notice of appeal must be filed within 30 days following the entry of the order disposing of all timely postjudgment motions. Within 5 days of its being so filed a copy of the notice of appeal or an amendment of the notice of appeal shall be transmitted by the clerk of the circuit court to the clerk of the court to which the appeal is taken. Except as provided in paragraph (c) below, and in Rule 604(d), no appeal may be taken from a trial court to a reviewing court after the expiration of 30 days from the entry of the order or judgment from which the appeal is taken. The clerk of the appellate court shall notify any party whose appeal has been dismissed under this rule.

(c) Extension of Time in Certain Circumstances. Except as provided in Rule 604(h), on motion supported by a showing of reasonable excuse for failing to file a notice of appeal on time filed in the reviewing court within 30 days of the expiration of the time for filing the notice of appeal, or on motion supported by a showing by affidavit that there is merit to the appeal and that the failure to file a notice of appeal on time was not due to appellant's culpable negligence, filed in the reviewing court within six months of the expiration of the time for filing the notice of appeal, in either case accompanied by the proposed notice of appeal, the reviewing court may grant leave to appeal and order the clerk to transmit the notice of appeal to the trial court for filing. However, when the appellant is filing the motion *pro se* from a correctional institution, the appellant may submit, in lieu of the affidavit referred to herein, a certification as provided in section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109).

(d) Forms of Notice of Appeal. The notices of appeal under the Pretrial Fairness Act when the defendant is the appellant or the State is the appellant shall be prepared by using, or substantially adopting the appearance and content of, the forms provided in the Article VI Forms Appendix. In all other cases, the notice of appeal shall be prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article VI Forms Appendix.

Except as provided in Rule 604(h), the notice of appeal may be amended as provided in Rule 303(b)(5).

(e) Notice of Appeal to be Sent by Clerk.

(1) *When Defendant Is Appellant and Action Is Prosecuted by the State.* When the defendant is the appellant and the action was prosecuted by the State, the clerk shall send the notice of appeal to the State's Attorney of the county in which the judgment was entered.

(2) *When Defendant Is Appellant and the Action Is Prosecuted by a Governmental Entity Other Than the State.* If the defendant is the appellant and the action was prosecuted by a governmental entity other than the State for the violation of an ordinance, the notice of appeal shall be sent to the chief legal officer of the entity (*e.g.*, corporation counsel, city attorney), or

if his name and address do not appear of record, then to the chief administrative officer of the entity at his official address.

(3) *When the Prosecuting Entity Is the Appellant.* When the State or other prosecuting entity is the appellant, the notice of appeal shall be sent to the defendant and to his counsel.

(f) Docketing. Upon receipt of the notice of appeal transmitted to the reviewing court pursuant to paragraph (a) of this rule, or the entry of an order granting a motion for leave to appeal under paragraph (c) of this rule, the clerk of the reviewing court shall enter the appeal upon the docket.

(g) Docketing Statement; Filing Fee. Within 14 days after the filing of the notice of appeal and pursuant to notice to the appellee's attorney, except as provided in Rule 604(h), the party filing the notice of appeal shall file with the clerk of the reviewing court a docketing statement, together with proof of service thereof, and the filing fee as required by Rule 313. The docketing statement shall be prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article VI Forms Appendix.

Amended October 21, 1969, effective January 1, 1970; amended effective July 1, 1971, July 1, 1975, and February 17, 1977; amended July 15, 1979, effective October 15, 1979; amended April 27, 1984, effective July 1, 1984; amended August 27, 1999, effective immediately; amended October 22, 1999, effective December 1, 1999; amended December 13, 2005, effective immediately; amended July 27, 2006, effective September 1, 2006; amended March 20, 2009, effective immediately; amended Dec. 12, 2012, eff. Jan. 1, 2013; amended Feb. 6, 2013, eff. immediately; amended Dec. 11, 2014, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended Mar. 12, 2021, eff. immediately; amended Dec. 23, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Amended Rule 607

Rule 607. Appeals by Indigent Defendants.

(a) Appointment of Counsel. Upon the filing of a notice of appeal in any case in which the defendant has been found guilty of a felony or a Class A misdemeanor, or in which he has been found guilty of a lesser offense and sentenced to imprisonment or periodic imprisonment, or to probation or conditional discharge conditioned upon periodic imprisonment, or in which a sentence of probation or conditional discharge has been revoked or the conditions attached to such a sentence modified and a sentence of imprisonment or periodic imprisonment imposed, or in cases where the court has imposed conditions of pretrial release, where the defendant has been detained pretrial, or where the defendant's pretrial release has been revoked, or where the State appeals, the circuit court shall determine whether the defendant is represented by counsel on appeal.

If not so represented, and the court determines that the defendant is indigent and desires counsel on appeal, the court shall appoint counsel on appeal. Compensation and reimbursement for expenses of appointed attorneys shall be as provided by statute.

(b) Report of Proceedings. Upon finding by the court that the defendant is indigent, the court reporting personnel as defined in Rule 46 shall transcribe, certify, and file the report of proceedings with the clerk of the trial court as directed by the appellate court docketing order.

(1) On direct appeal of any case in which the defendant has been found guilty and

sentenced to imprisonment, probation or conditional discharge, or periodic imprisonment, or to pay a fine, or in which a hearing has been held resulting in the revocation of or modification of the conditions of probation or conditional discharge, or in cases where the court has imposed conditions of pretrial release, or in cases where the defendant has been detained pretrial or where the defendant's pretrial release has been revoked, the defendant shall receive a copy of the report of the proceedings at his trial or hearing without charge. The clerk of the trial court shall transmit one printed copy of the filed report of proceedings to the defendant.

(2) If the conduct on which the case was based was also the basis for a juvenile proceeding that was dismissed so that the case could proceed, the defendant shall receive a copy of the report of proceedings in the juvenile proceeding without charge. The clerk of the trial court shall transmit one printed copy of the filed report of proceedings to the defendant.

(3) In subsequent collateral appeals the report of proceedings shall be provided to the defendant only upon written request from defendant's appointed counsel to the clerk of the circuit court specifying the date of the report of proceedings requested. The clerk of the trial court, upon receiving such a request from defendant's counsel, shall then transmit one printed copy of the specified report of proceedings to the defendant.

(4) The clerk of the trial court shall provide only one copy of any report of proceedings to the indigent defendant pursuant to the above procedure.

(5) The court reporting personnel who prepare reports of proceedings under this rule shall be paid pursuant to a schedule of charges approved by the public employer and employer representative for the court reporting personnel.

(c) Filing Fees Excused. If the defendant is represented by court-appointed counsel, the clerk of the reviewing court shall docket the appeal and accept documents for filing without the payment of fees.

(d) Paper Copies of Briefs or Petitions for Leave to Appeal. If the defendant is represented by court-appointed counsel, unless electronically filed, the clerk of the Supreme Court shall accept for filing not less than 13 legible paper copies of briefs or petitions for leave to appeal or answers thereto; and the clerks of the Appellate Court shall accept for filing not less than 6 legible paper copies of briefs if required by the electronic filing policy of the Appellate Court.

Amended effective June 23, 1967; amended October 21, 1969, effective January 1, 1970; amended effective July 1, 1971; amended June 28, 1974, effective September 1, 1974; amended September 29, 1978, effective November 1, 1978; amended July 30, 1979 and September 20, 1979, effective October 15, 1979; amended April 7, 1993, effective June 1, 1993; amended September 22, 1997, effective January 1, 1998; amended September 30, 2002, effective immediately; amended December 13, 2005, effective immediately; amended Feb. 6, 2013, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended Dec. 23, 2022, ~~eff. Jan. 1, 2023~~eff. Sept. 18, 2023.

Committee Comments
(Revised 1979)

Paragraph (a)

As adopted effective January 1, 1967, this paragraph was former Rule 27(18) with no substantial change except to provide that counsel other than the public defender may be appointed only in the discretion of the court. Rule 27(18) was derived from section 121-13(b) of the Code of Criminal Procedure. This provision harmonized the rule with the provisions of section 113-3 of the Code, as amended by the 1965 General Assembly.

As adopted in 1967, paragraph (a) provided for the appointment of counsel on appeal only in cases in which the defendant had been convicted of a crime punishable by imprisonment in the penitentiary. In 1971, the rule was amended to extend the right to appointed counsel to cases in which the defendant had been convicted of an offense punishable by imprisonment for more than six months. The term "criminal" was dropped to make it plain that the rule applied to ordinance violation cases in which the penalty could exceed six months' imprisonment. In 1974, after the decision in *Argersinger v. Hamlin* (1972), 407 U.S. 25, extending the right to counsel to all cases in which any imprisonment is actually imposed, paragraph (a) was amended to bring it in accord with the decision. At the same time the limitation on appointment of counsel other than the public defender was deleted.

Paragraph (b)

As adopted effective January 1, 1967, this paragraph was former Rule 27(9)(b) without substantial change. Rule 27(9)(b) was derived from earlier Rule 65-1(1), repealed effective January 1, 1964.

Like paragraph (a), this paragraph originally applied only to cases in which the defendant had been convicted of a crime punishable by imprisonment in the penitentiary. In 1971, it was amended to apply to cases in which the defendant had been convicted of an offense (including ordinance violations) punishable by more than six months' imprisonment. In 1974, it was amended to conform to the requirements set out in *Mayer v. City of Chicago* (1971), 404 U.S. 189, where it was held that a defendant convicted of an ordinance violation punishable by fine only is entitled, if indigent, to receive a free transcript of the proceedings at the trial. As presently worded, paragraph (b) provides that a defendant found guilty of any offense and sentenced to any of the sentences provided for in the Unified Code of Corrections (see Ill. Rev. Stat. 1973, ch. 38, par. 1005-5-3) may proceed under the rule.

Paragraph (b) was amended in October 1969 to provide explicitly that an indigent juvenile convicted of a felony after dismissal of a juvenile proceeding involving the facts on which the felony case is based is entitled to a report of proceedings of the juvenile proceeding. The need for insuring the availability of such a transcript was underscored by *People v. Jiles*, 43 Ill. 2d 145, 251 N.E.2d 529 (1969). The reference to "a felony case" in this provision was changed in 1971 to "that case," referring to any case that falls within the general coverage of the rule, meaning, since 1974, any case in which the defendant has been found guilty of an offense and sentenced. In 1978 paragraph (b) was amended to provide that upon written request the copy of the report of proceedings made for the defendant shall be delivered to the defendant's attorney of record, if he has one, and otherwise, on written request, released to the defendant or his guardian or custodian. This change was designed to avoid confusion over the delivery of the copy and leave a record of its delivery.

Paragraphs (c) and (d)

These provisions, new in 1967, codified existing Supreme Court practice.

In 1979, Rule 342 was amended to provide that with the exception of stated documents (see Rule 342(a)), no portions of the record shall be reproduced. Rule 317 was amended to reflect this change in the practice. See the committee comments to Rule 342.

Commentary
(September 22, 1997)

This amendment of Rule 607(b) directing the preparation of an additional copy of the report of proceedings in a case in which a death sentence is imposed is a necessary complement to Rule 608, amended September 22, 1997, effective January 1, 1998, which requires the preparation and filing of a duplicate record on appeal, in addition to the original, in death sentence cases.