

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered February 13, 2019.

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

Effective July 1, 2019, Illinois Supreme Court Rule 298 is amended, and Illinois Supreme Court Rule 404 is adopted, as follows.

Amended Rule 298

Rule 298. Application for Waiver of Court Fees

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

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

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

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

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CLERK**

make payment upon reasonable terms and conditions stated in the order.

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

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

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

New Rule 404

Rule 404. Application for Waiver of Court Assessments

(a) Contents. An Application for Waiver of Court Assessments in a criminal action pursuant to 725 ILCS 5/124A-20 shall be in writing and signed by the applicant or, if the applicant is a minor or an incompetent adult, by another person having knowledge of the facts. The Application should be submitted no later than 30 days after sentencing.

(1) The contents of the Application must be sufficient to allow a court to determine whether an applicant qualifies for a full or partial waiver of assessments pursuant to 725 ILCS 5/124A-20 and shall include information regarding the applicant's household composition, receipt of need-based public benefits, income, expenses, and nonexempt assets.

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

(b) Ruling. The court shall either enter a ruling on the Application or shall set the Application for a hearing requiring the applicant to appear in person. The court may order the applicant to produce copies of certain documents in support of the Application at the hearing. The court's ruling on an Application for Waiver of Assessments shall be made according to standards set forth in 725 ILCS 5/124A-20. If the Application is denied, the court shall enter an order to that effect specifying the reasons for the denial. If the court determines that the conditions for a full assessment waiver are satisfied under 725 ILCS 5/124A-20(b)(1), it shall enter an order waiving the payment of the assessments. If the court determines that the conditions for a partial assessment waiver under 725 ILCS 5/124A-20(b)(2) are satisfied, it shall enter an order for payment of a specified percentage of the assessments. If an Application is denied or an Application for a partial assessment waiver is granted, the court may allow the applicant to defer payment of the assessments, make installment payments, or make payment

upon reasonable terms and conditions stated in the order.

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

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

Adopted Feb. 13, 2019, eff. July 1, 2019.

Committee Comments

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