

HOW TO ASK THE JUDGE TO WAIVE CRIMINAL COURT ASSESSMENTS

NOTE: If there are any words or terms used in these instructions that you do not understand, please visit Illinois Legal Aid Online at illinoislegalaid.org/lexicon/glossary. For more information about going to court including how to fill out and file forms, call or text Illinois Court Help at 833-411-1121 or go to ilcourthelp.gov.

What are criminal court assessments?

Assessments are costs charged to a defendant in a criminal case once found guilty. They do not include fines or restitution ordered by the judge to be paid by the defendant. They also do not include costs in civil and juvenile cases and fee assessments resulting from violations of the Illinois Vehicle Code. The waiver may not apply to some court costs and fees associated with your case.

Who can ask the judge to waive a criminal court assessment?

Anyone who must pay an assessment as part of a court case. You can ask for yourself or a minor child, but not for anyone else.

How will I know if there is an assessment?

You will get a document that tells you if you owe an assessment.

What forms do I need to fill out to ask the judge to waive or reduce assessments?

- **Application for Waiver of Criminal Court Assessments:** Is used to tell the judge whether you get any public benefits and your income and expense information so they can decide if you are eligible for a waiver of court fee assessments.
- **Order for Waiver of Criminal Court Assessments:** Is used by the judge to say your application is granted or denied.
- The email address (if you have one) and mailing address you put on the forms is where important legal documents will be sent to you. You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information, notice of court dates, or documents from other parties.

Where can I find the forms I need?

The Office of the Circuit Clerk in the county where the criminal charges were filed. You can also find the forms at: ilcourts.info/forms.

Do I have to pay to file an *Application for Waiver of Criminal Court Assessments*?

No, there is no cost for filing an *Application for Waiver of Criminal Court Assessments*.

Is there a deadline for filing an *Application for Waiver of Criminal Court Assessments*?

Yes, in criminal cases you must file an *Application for Waiver of Criminal Court Assessments* no later than 30 days after the sentencing date.

How do I prove I cannot afford to pay court assessments?

The judge may require you to prove the information in your *Application*. If you get public benefits you may want to bring current proof of eligibility and a benefits statement from the agency providing the benefit.

Examples of public benefits are:

- Supplemental Security Income (SSI, Not Social Security)
- Aid to the Aged, Blind and Disabled (AABD)
- Temporary Assistance to Needy Families (TANF)
- SNAP (Food Stamps)
- General Assistance (GA), Transitional Assistance, or State Children and Family Assistance

If you don't get public benefits, you may want to bring documents showing your income, value of belongings (for example, real estate), and expenses.

Can the judge make me pay back assessments after I have been granted a waiver?

If the judge grants your *Application* and later decides that the information you put in your *Application* was false, the judge can make you pay any assessments that were waived.

What happens if my *Application* is granted?

Depending upon your circumstances, the judge may order that:

- All of your assessments are waived;
- You must pay 25% of any assessment;
- You must pay 50% of any assessment; OR
- You must pay 75% of any assessment.

What do I do after I fill out the *Application for Waiver of Criminal Court Assessments* and *Order for Waiver of Criminal Court Assessments*?

Step 1: File the *Application* and *Order* with the Circuit Clerk in the county where the charges were filed.

- The courthouse address should be on the court papers you received. Or, you can find the courthouse address, online, at: ilcourts.info/CircuitClerks.
- Make a copy of your original *Application* for yourself.
- The Circuit Clerk will stamp and keep the original.
- How to File in Person
 - Go to the courthouse in the county where your court case is filed.
 - Give the Circuit Clerk your original forms and the copies to stamp.
 - The Circuit Clerk will keep the original forms and give back your copies.
- How to File by Mail
 - If you do not need to appear in person, mail your *Application* and *Order* and one copy of each to the Circuit Clerk.
 - Include a self-addressed and stamped envelope for the Circuit Clerk to mail the file stamped copy back to you.
- How to electronically file (E-file)
 - In counties that accept e-filing for criminal matters (you can go to efile.illinoiscourts.gov/active-courts.htm to see if your court accepts criminal e-filings) you may electronically file (e-file) the *Application* and *Order* with the trial court.
 - Most people e-file their forms using Odyssey eFileIL at ilcourts.info/efile.
 - Follow step-by-step instructions and watch videos that walk you through the steps for e-filing at ilcourts.info/EfileHowTo.
 - E-filing may not work on a cell phone or tablet. You may need to use a computer to e-file.
 - If you do not have access to a computer or if you need help e-filing, take your completed forms to a public library, or a Circuit Clerk, Appellate Clerk, or Supreme Court Clerks' office. These places offer public computers where you can e-file your forms. Librarians and courthouse staff are not able to provide legal advice.
 - You can bring your forms on paper or saved on a flash drive. The public computer will have a scanner where you can turn your paper forms into electronic files.
 - If your court requires that all *Application* and *Order* be e-filed, some people are still exempt from e-filing, which means they can file paper forms at the courthouse or by mail. People who do not have to e-file are:
 - inmates in prison or jail who do not have a lawyer
 - people with a disability that keeps them from e-filing
- You may also qualify for an exemption from e-filing if:
 - You do not have Internet or computer access in your home, and it is hard for you to travel.
 - You have trouble reading, writing, or speaking English.
 - You are filing documents in a sensitive case, such as an order of protection.
 - You tried to e-file your forms, but you were not able to because the equipment or help you needed was not available.
- To ask for an exemption from e-filing, use the form at ilcourts.info/ExemptionCircuit. If you can't print this form, then ask for it at your local courthouse.
- File your *Certification for Exemption from E-Filing* form with your other court forms at the Circuit Clerk's office or by mail.

Step 2: Wait for a decision.

- The judge will review your *Application for Waiver of Criminal Court Assessments* and decide whether you have to pay the assessments.
- The judge may need more information from you. If so, the judge may want to have a hearing on your *Application*. The judge will notify you if you need to give more information or documents, or go to see the judge.
- After the judge makes a decision, the judge will fill out the *Order for Waiver of Criminal Court Assessments*. The *Order for Waiver of Criminal Court Assessments* will say if you have to pay any assessments.
- The Circuit Clerk will tell you how and when you will get a copy of the *Order for Waiver of Criminal Court Assessments*.
- If the judge decides you have to pay all or some of the court assessments, they also may allow you to defer payment to a later date, make installment payments, or make payment upon other terms and conditions stated in the order. If you fail to pay as ordered by the judge, the matter may be referred for collection, a *Petition to Revoke the Sentence* may be filed, or the judge may hold you in contempt. If you are sentenced to probation, conditional discharge, or supervision and fail to pay the assessment before the end of your sentence, the court could extend your period of probation, conditional discharge, or supervision until you pay the assessment.
- If a cash bond has been posted in the case, then the cash bond may be used to pay the assessments if it has not been applied to other fines or fees.