

**JOINT COMMITTEE ON THE JUDICIARY
BILL SUMMARY**

BILL NO. H1768

TITLE: An Act related to indigency

SPONSOR: Rep. Daniel J. Hunt

COSPONSOR(S): None

HEARING DATE: April 8, 2025

PRIOR HISTORY: 2023 – 24 H1561 (Hunt)
2021 – 22 H1673 (Hunt)

RELATED BILL: S1037 (Brownsberger)

CURRENT LAW: Section 27A of Chapter 261 of the General Laws defines “indigent” as a person who: (a) receives public assistance under state or federal programs; (b) has an income after taxes of 125% or less of the federal poverty standard; or (c) is unable to pay the fees and cost of the court proceeding without depriving themselves or their dependents of the necessities of life. It includes a reference to a separate procedure for judging an inmate indigent.

Section 2A of Chapter 211D outlines the steps necessary to verify a claim of indigency to qualify for court-appointed counsel, the reassessments required to continue to qualify as indigent and the quarterly reporting required by the office of the commissioner of probation on indigency claims, misrepresentations, disqualifications, fees and other pertinent information to the House and Senate Committees on Ways and Means.

Subsection (a) requires a person claiming indigency to execute a waiver authorizing probation to obtain wage, tax and asset information to verify their claim.

Subsection (b) makes the probation officer responsible for ensuring the indigency claim meets the definition of indigency and for explaining the standard, process and penalties to the person claiming indigent status. The probation officer will write an indigency intake report for the court with a recommendation on whether the person is indigent.

Subsection (c) requires a verification of the initial indigency determination by the chief probation officer within 7 days who shall then prepare a final report of the person’s financial circumstances including information from the departments of revenue, transitional assistance and the registry of motor vehicles. This report shall certify whether the person meets the definition of indigency and

shall be filed with the case papers for the judge. Probation shall reassess the person's financial circumstances every 6 months to ensure they continue to meet the definition of indigency and shall file a report with their conclusions. Probation is also required to share these documents with the department of children and families for certain purposes.

Subsection (d) states that if a criminal defendant is charged with a second or further offense the court may require a further determination of indigency.

Subsection (e) states that if a court finds that a person materially misrepresented or omitted information on their assets or property during their indigency determination and do not meet the definition of indigency, they shall terminate their court-appointed counsel and assess costs and fees of not less than \$1,000 against the person.

Subsection (f) states that indigent adults who are provided court-appointed attorneys are assessed a \$150 counsel fee.

Subsection (g) permits the court to authorize a person to perform community service in lieu of paying this fee.

Subsection (h) requires the clerk of court to report within 60 days the amount of any legal counsel fee owed to the departments of revenue and transitional assistance and the registry of motor vehicles. The department of revenue may recover the fee from tax refunds due and the RMV shall not issue or renew the person's driver's license or vehicle registration until notified that the fee has been collected or community service performed in lieu of the fee.

Subsection (i) requires the office of probation to submit quarterly reports to the house and senate committees on ways and means with data on indigency claims and determinations, misrepresentations, re-assessment determinations and fees.

BILL SUMMARY:

Section 1. Amends the definition of "indigent" in Section 27A of Chapter 261 of the General Laws to reference additional state public assistance programs and to utilize updated guidelines for poverty threshold calculations.

Sections 2 to 5 edit Section 21 of Chapter 211Das follows:

Section 2. Edits the second paragraph of sub-section (c) to no longer require indigency reassessments every 6 months. Instead, an indigency reassessment may be ordered any time the court receives information causing the determination of a person's indigency status to be in doubt.

Section 3. Removes the reference to bi-annual reassessments for indigency from subsection (d).

Section 4. Cuts subsections (f), (g) and (h).

Section 5. Cuts from subsection (i) all reporting requirements dealing with fee collection or community service performed in lieu of fee collection.