



Rep. Dwight Kay

Filed: 4/1/2014

09800HB4969ham002

LRB098 16582 HEP 57793 a

1 AMENDMENT TO HOUSE BILL 4969

2 AMENDMENT NO. _____. Amend House Bill 4969 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by adding Section
5 4-11001.5 as follows:

6 (55 ILCS 5/4-11001.5 new)

7 Sec. 4-11001.5. Lengthy Trial Fund.

8 (a) The Lengthy Trial Fund is established as a special fund
9 in the State treasury. Moneys in the Lengthy Trial Fund shall
10 be used to provide full or partial wage replacement or wage
11 supplementation to jurors who serve as petit jurors for more
12 than 10 days.

13 (b) The Supreme Court shall adopt rules providing for the
14 following:

15 (1) the selection and appointment of an administrator
16 for the Fund;

1 (2) procedures for its administration that provide
2 that moneys in the Fund shall be used to make wage
3 replacement or wage supplementation as provided in this
4 Section to jurors participating on juries in trials where
5 jury service extends 11 days or longer and to recover all
6 the costs of administering the Fund, including payments of
7 salaries of the administrator and other necessary
8 personnel;

9 (3) the accounting, auditing, and investment of moneys
10 in the Lengthy Trial Fund in accordance with State law
11 pertaining to similar funds; and

12 (4) the inclusion of a report by the Supreme Court on
13 the administration of the Lengthy Trial Fund in its annual
14 report on the judicial branch, setting forth the moneys
15 collected for and disbursed from the Fund.

16 (c) Notwithstanding any other fees payable under the laws
17 of this State, the clerk of the circuit court shall collect for
18 each new filing in a civil case, unless otherwise exempted
19 under this Section, a fee of \$10 per case for deposit into the
20 Lengthy Trial Fund. A new filing is deemed to have been made at
21 the time in an action that the first pleading or other filing
22 on which an individual's or attorney's name appears is
23 submitted to the court for filing. The clerk of the circuit
24 court shall forward all fees collected under this subsection
25 (c) to the administrator of the Lengthy Trial Fund for deposit.

26 (d) The administrator shall, on or before the 15th day of

1 each month, transmit all moneys received from any clerk of the
2 circuit court to the State Treasurer for deposit into the
3 Lengthy Trial Fund.

4 (e) The administrator shall use the fees deposited in the
5 Lengthy Trial Fund to pay replacement or supplemental wages
6 under subsection (g) to jurors whose employers pay less than
7 full regular wages.

8 (f) Not more than 3% of the moneys in the Lengthy Trial
9 Fund may be used for the reasonable and necessary costs of
10 administering the Fund.

11 (g) The court may pay replacement or supplemental wages of
12 up to \$300 per day per juror beginning on the 11th day of jury
13 service. In addition, if a juror who qualifies for payment by
14 virtue of having served on a jury for more than 10 days, the
15 court may, upon finding that the service posed a significant
16 financial hardship to a juror, even in light of payments made
17 with respect to jury service after the tenth day, award
18 replacement or supplemental wages of up to \$100 per day from
19 the 4th to the 10th day of jury service.

20 (h) A juror who is serving or has served on a jury that
21 qualifies for payment from the Lengthy Trial Fund, provided the
22 service commenced on or after the effective date of this
23 amendatory Act of the 98th General Assembly, may submit a
24 request for payment from the Lengthy Trial Fund on a form that
25 the administrator provides. Payment shall be limited to the
26 difference between the State-paid jury fee and the actual

1 amount of wages a juror earns, up to the maximum level payable,
2 minus any amount the juror actually receives from the employer
3 during the same time period.

4 The request for payment shall disclose the juror's regular
5 wages, the amount the employer will pay during the term of jury
6 service starting on the 11th day and thereafter, the amount of
7 replacement or supplemental wages requested, and any other
8 information the administrator deems necessary for proper
9 payment.

10 The juror shall also submit verification from the employer
11 as to the wage information provided to the administrator, such
12 as the employee's most recent earnings statement or a similar
13 document, prior to initiation of payment from the Fund.

14 If a juror is self-employed or receives compensation other
15 than wages, the juror may provide a sworn affidavit attesting
16 to his or her approximate gross weekly income, together with
17 any other information that the administrator may require in
18 order to verify weekly income.

19 Documents submitted pursuant to this subsection (h) are not
20 public records and shall not be disclosed to the general
21 public.

22 (i) The following attorneys, persons, cases, claims,
23 actions, and filings are exempt from payment of the Lengthy
24 Trial Fund fee:

25 (1) government attorneys entering appearances in the
26 course of their official duties;

1 (2) pro se litigants;
2 (3) cases in small claims court; or
3 (4) claims seeking disability determinations; child
4 custody and support cases; actions brought in forma
5 pauperis; and any other filings designated by rule that
6 involve minimal use of court resources or that customarily
7 are not afforded the opportunity for a trial by jury.

8 Section 10. The Jury Act is amended by changing Sections
9 4.1, 5, 8, 10.2, and 15 and by adding Section 10.5 as follows:

10 (705 ILCS 305/4.1) (from Ch. 78, par. 4.1)

11 Sec. 4.1. Jury duty; notice to employer; right to time off.

12 (a) Any person who is not legally disqualified to serve on
13 juries, and has been duly summoned for jury duty for either
14 petit or grand jury service, shall not be required or requested
15 to use annual, vacation, or sick leave for time spent
16 responding to a summons for jury duty, time spent participating
17 in the jury selection process, or time spent actually serving
18 on a jury ~~be given time off from employment to serve upon the~~
19 ~~jury~~ for which such employee is summoned, regardless of the
20 employment shift such employee is assigned to at the time of
21 service of such summons. An employee shall give his employer
22 reasonable notice of required jury service. An employer may not
23 deny an employee time off for jury duty because such employee
24 is then assigned to work a night shift of employment, that is,

1 an employer cannot require a night shift worker to work while
2 such employee is doing jury duty in the daytime.

3 Nothing in this subsection (a) shall be construed to
4 require an employer to provide annual, vacation, or sick leave
5 to employees under this Act who otherwise are not entitled to
6 such benefits under company policies.

7 (b) No employer shall discharge, threaten to discharge,
8 intimidate, or otherwise subject ~~or coerce~~ any employee to any
9 other adverse employment action by reason of the employee's
10 jury service, or the attendance or scheduled attendance in
11 connection with such service, in any court of this State.

12 (c) If an employee gives reasonable notice of required jury
13 service, any employer who violates the provisions of this
14 Section:

15 (1) may be charged with contempt of court. In such an
16 event, the State's Attorney shall file a petition for civil
17 contempt, criminal contempt, or both, against the employer
18 to be prosecuted by the State's Attorney; and

19 (2) shall be liable for damages for any loss of wages
20 or other benefits suffered by an employee by reason of the
21 violation; and

22 (3) may be enjoined from further violations of this
23 Section and ordered to reinstate any employee discharged by
24 reason of jury service.

25 As used in this Section, "reasonable notice of required
26 jury service" means that the employee summoned for jury duty

1 must deliver to the employer a copy of the summons within 10
2 days of the date of issuance of the summons to the employee.

3 (d) Any individual who is reinstated to a position of
4 employment in accordance with this Section shall be considered
5 as having been on furlough or leave of absence during his
6 period of jury service, shall be reinstated to his position of
7 employment without loss of seniority, and shall be entitled to
8 participate in insurance or other benefits offered by the
9 employer under established rules and practices relating to
10 employees on furlough or leave of absence in effect with the
11 employer at the time the individual entered upon jury service.

12 (e) In any action or proceeding under this Section, the
13 court may award a prevailing employee who brings the action by
14 retained counsel a reasonable attorney's fee.

15 (f) Any right or remedy provided in this Section is in
16 addition to any right or remedy otherwise provided by law to an
17 employee.

18 (g) No employer shall be obligated to compensate an
19 employee for time taken off for jury duty.

20 (g-5) The court shall automatically postpone and
21 reschedule the service of a summoned juror who is employed by
22 an employer with 5 or fewer full-time employees, or the
23 equivalent, if another employee of that employer has been
24 summoned to appear during the same period. The postponement
25 under this subsection does not constitute the excused
26 individual's automatic postponement under Section 10.4 of this

1 Act.

2 (h) The official responsible for issuing the summons may
3 advise the juror of his rights under this Act by printed insert
4 with the summons or on the summons itself.

5 (Source: P.A. 86-1395; 87-616.)

6 (705 ILCS 305/5) (from Ch. 78, par. 5)

7 Sec. 5. Subsequent selections; length of service.

8 (a) At the time of making such selection, the name of the
9 person selected shall be checked off from such list, and shall
10 not be again selected as a juror till every person named upon
11 such list qualified to serve as a juror has been selected; and
12 all subsequent selections of jurors by such board shall be made
13 from such list until all persons thereon qualified to serve
14 have been selected, or until a new list is made: Provided, if
15 any person who has been selected as a juror shall not have been
16 drawn, or have served upon a jury during the year for which he
17 was selected, he shall, if qualified, be selected for the next
18 year.

19 (b) In a county with a population greater than 100,000,
20 service of prospective petit jurors shall be for no more than
21 one court day in actual attendance, unless a prospective petit
22 juror is selected to serve in a trial or is under consideration
23 to serve on a trial and such consideration covers a period of 2
24 or more days. Once selected, a petit juror shall serve on the
25 jury for the duration of the trial unless excused by the

1 presiding judge.

2 (Source: P.A. 86-1053.)

3 (705 ILCS 305/8) (from Ch. 78, par. 8)

4 Sec. 8. Drawing names of jurors.

5 (a) Upon a day designated by the judge of the court, which
6 shall be at least 20 days before the first day for which any of
7 the panel then to be drawn is summoned, the clerk of such court
8 shall repair to the office of the county clerk, and in the
9 presence of a judge and of such county clerk, after the box
10 containing the names has been well shaken by the county clerk,
11 and being blindfolded shall, without partiality, draw from such
12 box the names of a sufficient number of such persons, then
13 residents of the county, not less than 30 for each 2 weeks that
14 such court will probably be in session for the trial of common
15 law cases, to constitute the petit jurors for the time being
16 and where there is an additional judge in such court, a like
17 number for each additional judge requiring a jury, unless the
18 court shall otherwise order: Provided, that the clerk shall at
19 any time, when directed by an order of the court draw in the
20 manner above provided, such number of persons then residents of
21 the county, as shall be required by the order to act as petit
22 jurors in such court for such time as may be fixed in such
23 order: And provided, that should the clerk draw from the box
24 the name of a person who is known to be dead, to have been
25 selected as a grand juror, a non-resident, absent from the

1 State, ~~unable to attend in consequence of illness, or that he~~
2 ~~is~~ legally disqualified to serve as a juror, the clerk shall
3 report the name of such person to the county clerk, and the
4 clerk of such court shall draw other names until the required
5 number have been selected: Provided, also that whenever there
6 is pending for trial in any of the courts, any criminal cause
7 wherein the defendant is charged with a felony, and the judge
8 holding such court is convinced from the circumstances of the
9 case that a jury cannot be obtained from the regular panel to
10 try the cause, the judge may in his discretion, prior to the
11 day fixed for the trial of the cause, direct the clerk to draw
12 (in the same manner as the regular panel is drawn,) not
13 exceeding 100 names as a special panel from which a jury may be
14 selected to try the cause.

15 (b) Notwithstanding the provisions of subsection (a),
16 names of jurors may be randomly drawn by computer.

17 (Source: P.A. 86-1053.)

18 (705 ILCS 305/10.2) (from Ch. 78, par. 10.2)

19 Sec. 10.2. Excusing prospective jurors; hardship.

20 (a) An individual may apply to be excused from jury service
21 for a period of up to 24 months, instead of seeking a
22 postponement, when either:

23 (1) the prospective juror has a mental or physical
24 condition that causes him or her to be incapable of
25 performing jury service. The juror, or the juror's personal

1 representative, must provide the court with documentation
2 from a physician licensed to practice medicine in all its
3 branches verifying that a mental or physical condition
4 renders the person unfit for jury service for a period not
5 less than the 24-month period for which the excuse is
6 sought; or

7 (2) jury service would otherwise cause undue or extreme
8 physical or financial hardship to the prospective juror or
9 a person under his or her care or supervision. A judge of
10 the court for which the individual was called to jury
11 service shall make determinations regarding undue or
12 extreme physical or financial hardship. The authority to
13 make these determinations is delegable only to court
14 officials or personnel who are authorized by the laws of
15 this State to function as members of the judiciary.

16 (b) A person asking to be excused from jury service under
17 this Section must take all actions necessary to have obtained a
18 ruling on that request by no later than the date on which the
19 individual is scheduled to appear for jury duty.

20 (c) For purposes of this Section, "undue or extreme
21 physical or financial hardship" is limited to circumstances in
22 which an individual would:

23 (1) be required to abandon a person under his or her
24 personal care or supervision due to the impossibility of
25 obtaining reasonable alternative care during the period of
26 participation in the jury pool or on the jury; or

1 (2) incur costs that would have a substantial adverse
2 impact on the payment of the individual's necessary daily
3 living expenses or on those for whom he or she provides the
4 principle means of support; or

5 (3) suffer physical hardship that would result in
6 illness or disease.

7 Undue or extreme physical or financial hardship does not
8 exist solely based on the fact that a prospective juror is
9 required to be absent from his or her place of employment. A
10 person asking a judge to grant an excuse based on undue or
11 extreme physical or financial hardship shall provide the judge
12 with documentation, such as, but not limited to, federal and
13 State income tax returns, medical statements from licensed
14 physicians, proof of dependency or guardianship, and similar
15 documents which the judge finds to clearly support the request
16 to be excused. Failure to provide satisfactory documentation
17 shall result in a denial of the request to be excused. These
18 documents are not public records and shall not be disclosed to
19 the general public.

20 (d) After 24 months, a person excused from jury service
21 shall become eligible once again for qualification as a juror
22 unless the person was excused from service permanently. A
23 person is excused from jury service permanently only when the
24 deciding judge determines that the underlying grounds for being
25 excused are of a permanent nature.

26 ~~The county boards of the respective counties, the jury~~

1 ~~commissioners for those counties which have been appointed~~
2 ~~under the Jury Commission Act, or a jury administrator shall~~
3 ~~submit questionnaires to prospective jurors to inquire as to~~
4 ~~their qualifications for jury service and as to the hardship~~
5 ~~that jury service would pose to the prospective jurors. Upon~~
6 ~~prior approval by the chief judge of the judicial circuits in~~
7 ~~which a county board, jury administrator, or jury commissioners~~
8 ~~are situated, the county board, jury administrator, or jury~~
9 ~~commissioners shall excuse a prospective juror from jury~~
10 ~~service if the prospective juror shows that such service would~~
11 ~~impose an undue hardship on account of the nature of the~~
12 ~~prospective juror's occupation, business affairs, physical~~
13 ~~health, family situation, active duty in the Illinois National~~
14 ~~Guard or Illinois Naval Militia, or other personal affairs, and~~
15 ~~cause his or her name to be returned to the jury list or~~
16 ~~general jury list.~~

17 ~~(b) When an undue hardship caused by a family situation is~~
18 ~~due to the prospective juror being the primary care giver of a~~
19 ~~person with a mental or physical disability, a person with a~~
20 ~~medically diagnosed behavior problem, or a child under age 12,~~
21 ~~then the county board, jury commissioners or jury administrator~~
22 ~~shall excuse such a prospective juror, if it finds that no~~
23 ~~reasonable alternative care is feasible which would not impose~~
24 ~~an undue hardship on the prospective juror or the person for~~
25 ~~whom the prospective juror is providing care, or both.~~

26 (Source: P.A. 90-482, eff. 1-1-98; 91-264, eff. 7-23-99.)

1 (705 ILCS 305/10.5 new)

2 Sec. 10.5. Postponement of jury service.

3 (a) Notwithstanding Section 10.2 or any other provision of
4 this Act, an individual scheduled to appear for jury service
5 has the right to postpone the date of his or her initial
6 appearance for jury service one time only. When requested, a
7 postponement shall be granted, provided that:

8 (1) the juror has not previously been granted a
9 postponement;

10 (2) the prospective juror appears in person or contacts
11 the clerk of the court by telephone, electronic mail, or in
12 writing to request a postponement; and

13 (3) prior to the grant of a postponement with the
14 concurrence of the clerk of the court, the prospective
15 juror fixes a date certain on which he or she will appear
16 for jury service that is not more than 6 months after the
17 date on which the prospective juror originally was called
18 to serve and on which date the court will be in session.

19 (b) A subsequent request to postpone jury service may be
20 approved by a judicial officer only in the event of an extreme
21 emergency, such as a death in the family, sudden illness, or a
22 natural disaster or a national emergency in which the
23 prospective juror is personally involved and that could not
24 have been anticipated at the time the initial postponement was
25 granted. Prior to the grant of a second postponement, the

1 prospective juror must fix a date certain on which the
2 individual will appear for jury service within 6 months of the
3 postponement on a date when the court will be in session.

4 (705 ILCS 305/15) (from Ch. 78, par. 15)

5 Sec. 15. Penalties for failure to attend. Every person who
6 shall fail to attend when lawfully summoned to appear as a
7 grand or petit juror, without having properly obtained
8 postponement or excuse pursuant to Sections 10.2 and 10.4 ~~a~~
9 ~~reasonable excuse~~, shall be considered in civil ~~as guilty of a~~
10 contempt, and shall be fined by the courts, respectively, in
11 any sum not ~~less than \$5 nor~~ more than \$500 ~~\$100~~, for the use of
12 the proper county, unless good cause be shown for such default;
13 and it shall be the duty of the court to enter an order of
14 attachment, returnable forthwith, against all such
15 delinquents, and upon the return thereof the court shall
16 proceed to assess the fine unless the person or persons so
17 attached shall show good cause for such delinquency: Provided,
18 that the oath or affirmation of any such delinquent shall, at
19 all times, be received as competent evidence. In addition to,
20 or in lieu of, the fine, the court may order that the
21 prospective juror complete a period of community service for a
22 period no less than if the prospective juror would have
23 completed jury service, and provide proof of completion of this
24 community service to the court.

25 (Source: P.A. 83-346.)

1 Section 15. The State Finance Act is amended by adding
2 Section 5.855 as follows:

3 (30 ILCS 105/5.855 new)

4 Sec. 5.855. The Lengthy Trial Fund.

5 Section 97. Severability. The provisions of this Act are
6 severable under Section 1.31 of the Statute on Statutes."