



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1903

Introduced 2/20/2009, by Sen. Kirk W. Dillard

SYNOPSIS AS INTRODUCED:

See Index

Amends the Counties Code. Creates the Lengthy Trial Fund. Provides that the Fund shall be used to provide full or partial wage replacement or wage supplementation to jurors who serve as petit jurors for more than 10 days. Provides that a fee of \$10, which shall be paid to the clerk of the court for deposit into the Fund, shall be charged to each attorney who files a civil case or a pleading in response to a complaint. Amends the Jury Act. Provides that jurors shall not be required or requested to use annual, vacation, or sick leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process, or time spent actually serving on a jury. Provides that an employer may not subject an employee to any adverse employment action by reason of the employee's jury service. Provides that a court shall automatically postpone and reschedule the service of a summoned juror who is employed by an employer with 5 or fewer full-time employees, or the equivalent, if another employee of that employer is summoned to appear during the same period. Provides that an individual may be excused from jury service for a period of up to 24 months, instead of seeking postponement, under the listed circumstances. Raises the fees for failure to attend when summoned to appear as a grand or petit juror to any sum not more than \$500 (instead of \$100). Amends the State Finance Act to create the Lengthy Trial Fund. Makes other changes. Effective July 1, 2009.

LRB096 08758 AJO 18890 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning juries.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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 shall be established as a
9 special Fund in the State treasury that shall be used to
10 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;

17 (2) procedures for its administration that provide
18 that monies in the Fund shall be used to make wage
19 replacement or wage supplementation as provided in this
20 Section to jurors participating on juries in trials where
21 jury service extends 11 days or longer and to recover all
22 the costs of administering the Fund, including payments of
23 salaries of the Administrator and other necessary

1 personnel;

2 (3) the accounting, auditing, and investment of money
3 in the Lengthy Trial Fund in accordance with State law
4 pertaining to similar funds; and

5 (4) the inclusion of a report by the Supreme Court of
6 Illinois on the administration of the Lengthy Trial Fund in
7 its annual report on the judicial branch, setting forth the
8 money collected for and disbursed from the Fund.

9 (c) Notwithstanding any other compensation or fees payable
10 under the laws of this State, each trial court in the State
11 shall collect from each attorney who files a civil case or
12 files a pleading in response to a complaint, unless otherwise
13 exempted under the provisions of this Section, a fee of \$10 per
14 case to be paid to the clerk of the court for deposit into the
15 Lengthy Trial Fund. A lawyer will be deemed to have "filed a
16 case" at the time the first pleading or other filing on which
17 an individual lawyer's name appears is submitted to the court
18 for filing and opens a new case. All fees collected under this
19 subsection (c) shall be forwarded by the clerk of the court to
20 the Administrator of the Lengthy Trial Fund for deposit.

21 (d) The Administrator shall, on or before the fifteenth of
22 each month, transmit all monies received from any clerk of the
23 court to the State Treasurer for deposit into the Lengthy Trial
24 Fund.

25 (e) The Administrator shall use the fees deposited in the
26 Lengthy Trial Fund to pay supplemental or full wage replacement

1 to jurors whose employers pay less than full regular wages when
2 the period of jury service reaches the 11th day and thereafter.

3 (f) Not more than 3% of the monies in the Lengthy Trial
4 Fund may be used for the reasonable and necessary costs of
5 administering the Fund.

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

15 (h) Any juror who is serving or has served on a jury that
16 qualifies for payment from the Lengthy Trial Fund, provided the
17 service commenced on or after the effective date of this Act,
18 may submit a request for payment from the Lengthy Trial Fund on
19 a form that the Administrator provides. Payment shall be
20 limited to the difference between the State-paid jury fee and
21 the actual amount of wages a juror earns, up to the maximum
22 level payable, minus any amount the juror actually receives
23 from the employer during the same time period.

24 The form shall disclose the juror's regular wages, the
25 amount the employer will pay during the term of jury service
26 starting on the 11th day and thereafter, the amount of

1 replacement or supplemental wages requested, and any other
2 information the Administrator deems necessary for proper
3 payment.

4 The juror also shall be required to submit verification
5 from the employer as to the wage information provided to the
6 Administrator, for example, the employee's most recent
7 earnings statement or similar document, prior to initiation of
8 payment from the Fund.

9 If an individual is self-employed or receives compensation
10 other than wages, the individual may provide a sworn affidavit
11 attesting to his or her approximate gross weekly income,
12 together with any other information that the Administrator may
13 require, in order to verify weekly income.

14 Documents submitted pursuant to this subsection (h) are not
15 public records and shall not be disclosed to the general
16 public.

17 (i) The following attorneys and causes of action are exempt
18 from payment of the Lengthy Trial Fund fee:

19 (1) government attorneys entering appearances in the
20 course of their official duties;

21 (2) pro se litigants;

22 (3) cases in small claims court; or

23 (4) claims seeking social security disability
24 determinations; individual veterans' compensation or
25 disability determinations; recoupment actions for
26 government backed educational loans or mortgages; child

1 custody and support cases; actions brought in forma
2 pauperis; and any other filings designated by rule that
3 involve minimal use of court resources and that customarily
4 are not afforded the opportunity for a trial by jury.

5 Section 10. The Jury Act is amended by changing Sections
6 4.1, 5, 8, 10.2, and 15 and by adding Section 10.4 as follows:

7 (705 ILCS 305/4.1) (from Ch. 78, par. 4.1)

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

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

24 Nothing in this subsection (a) shall be construed to

1 require an employer to provide annual, vacation, or sick leave
2 to employees under the provision of this Act who otherwise are
3 not entitled to such benefits under company policies.

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

9 (c) If an employee gives reasonable notice of required jury
10 service, any employer who violates the provisions of this
11 Section:

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

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

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

22 As used in this Section, "reasonable notice of required
23 jury service" means that the employee summoned for jury duty
24 must deliver to the employer a copy of the summons within 10
25 days of the date of issuance of the summons to the employee.

26 (d) Any individual who is reinstated to a position of

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

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

12 (f) Any right or remedy provided in this Section is in
13 addition to any right or remedy otherwise provided by law to an
14 employee.

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

17 (g-5) A court shall automatically postpone and reschedule
18 the service of a summoned juror who is employed by an employer
19 with 5 or fewer full-time employees, or the equivalent, if
20 another employee of that employer is summoned to appear during
21 the same period. The postponement will not constitute the
22 excused individual's right to one automatic postponement
23 pursuant to Section 10.4 of this Act.

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

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

2 (705 ILCS 305/5) (from Ch. 78, par. 5)

3 Sec. 5. Subsequent selection of jurors; length of service.

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

15 (b) In counties with populations greater than 100,000,
16 service of prospective petit jurors shall be for no more than 1
17 court day in actual attendance, unless a prospective petit
18 juror is selected to serve in a trial or is under consideration
19 to serve on a trial and such consideration covers a period of 2
20 or more days. Once selected, a petit juror shall serve on the
21 jury for the duration of the trial unless excused by the
22 presiding judge.

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

24 (705 ILCS 305/8) (from Ch. 78, par. 8)

1 Sec. 8. Selection from box.

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

1 number have been selected: Provided, also that whenever there
2 is pending for trial in any of the courts, any criminal cause
3 wherein the defendant is charged with a felony, and the judge
4 holding such court is convinced from the circumstances of the
5 case that a jury cannot be obtained from the regular panel to
6 try the cause, the judge may in his discretion, prior to the
7 day fixed for the trial of the cause, direct the clerk to draw
8 (in the same manner as the regular panel is drawn,) not
9 exceeding 100 names as a special panel from which a jury may be
10 selected to try the cause.

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

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

14 (705 ILCS 305/10.2) (from Ch. 78, par. 10.2)

15 Sec. 10.2. Excusing prospective jurors; hardship.

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

19 (1) the prospective juror has a mental or physical
20 condition that causes him or her to be incapable of
21 performing jury service. The juror, or the juror's personal
22 representative, must provide the court with documentation
23 from a physician licensed to practice medicine in all its
24 branches verifying that a mental or physical condition
25 renders the person unfit for jury service for a period not

1 less than the 24 month period for which the excuse is
2 sought; or

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

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

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

19 (1) be required to abandon a person under his or her
20 personal care or supervision due to the impossibility of
21 obtaining reasonable alternative care during the period of
22 participation in the jury pool or on the jury; or

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

1 (3) suffer physical hardship that would result in
2 illness or disease.

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

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

22 ~~The county boards of the respective counties, the jury~~
23 ~~commissioners for those counties which have been appointed~~
24 ~~under the Jury Commission Act, or a jury administrator shall~~
25 ~~submit questionnaires to prospective jurors to inquire as to~~
26 ~~their qualifications for jury service and as to the hardship~~

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

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

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

23 (705 ILCS 305/10.4 new)

24 Sec. 10.4. Postponement of jury service.

25 (a) Notwithstanding Section 10.2 or any other provision of

1 this Act, individuals scheduled to appear for jury service have
2 the right to postpone the date of their initial appearance for
3 jury service 1 time only. When requested, postponements shall
4 be granted, provided that:

5 (1) the juror has not previously been granted a
6 postponement;

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

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

16 (b) A subsequent request to postpone jury service may be
17 approved by a judicial officer only in the event of an extreme
18 emergency, such as a death in the family, sudden illness, or a
19 natural disaster or a national emergency in which the
20 prospective juror is personally involved, that could not have
21 been anticipated at the time the initial postponement was
22 granted. Prior to the grant of a second postponement, the
23 prospective juror must fix a date certain on which the
24 individual will appear for jury service within 6 months of the
25 postponement on a date when the court will be in session.

1 (705 ILCS 305/15) (from Ch. 78, par. 15)

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

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

23 Section 15. The State Finance Act is amended by adding
24 Section 5.719 as follows:

1 (30 ILCS 105/5.719 new)

2 Sec. 5.719. The Lengthy Trial Fund.

3 Section 97. Severability. The provisions of this
4 amendatory Act of the 96th General Assembly are severable under
5 Section 1.31 of the Statute on Statutes.

6 Section 99. Effective date. This Act takes effect July 1,
7 2009.

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