



Rep. Dwight Kay

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LRB098 16582 HEP 56921 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."