



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4002

Introduced 2/26/2009, by Rep. Sidney H. Mathias

SYNOPSIS AS INTRODUCED:

See Index

Amends the Counties Code. Provides that the clerk of the court shall collect a juror fund fee from each plaintiff and defendant, except as otherwise specified, and that the fees shall be deposited into a County Juror Fund. Increases fees for jury service after a juror fund fee is imposed. Preempts home rule powers. Amends the Jury Act. Provides that a person summoned for jury service is not required to use specified types of leave time. Contains provisions regarding: postponement and rescheduling the service of certain jurors; limits on the service of certain jurors; circumstances under which an individual may apply to be excused from jury service; penalties for failure to attend as a juror; and other matters. Amends the State Mandates Act to require implementation without reimbursement. Contains severability provisions. Effective immediately.

LRB096 09872 AJO 20035 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 changing Section
5 4-11001 as follows:

6 (55 ILCS 5/4-11001) (from Ch. 34, par. 4-11001)

7 Sec. 4-11001. Juror fees. Each county shall pay to grand
8 and petit jurors for their services in attending courts the sum
9 of \$4 until a juror fund fee is imposed and \$25 thereafter for
10 each day of necessary attendance at such courts as jurors in
11 counties of the first class, the sum of \$5 until a juror fund
12 fee is imposed and \$30 thereafter for each day in counties of
13 the second class, and the sum of \$10 until a juror fund fee is
14 imposed and \$40 thereafter for each day in counties of the
15 third class, or such higher amount as may be fixed by the
16 county board.

17 In addition, jurors shall receive such travel expense as
18 may be determined by the county board, provided that jurors in
19 counties of the first class and second class shall receive at
20 least 10 cents per mile for their travel expense. Mileage shall
21 be allowed for travel during a juror's term as well as for
22 travel at the opening and closing of his term.

23 If a judge so orders, a juror shall also receive

1 reimbursement for the actual cost of day care incurred by the
2 juror during his or her service on a jury.

3 The juror fees for service, transportation, and day care
4 shall be paid out of the county treasury until a juror fund fee
5 is imposed and out of the County Juror Fund thereafter.

6 For the purposes of funding juror fees, the clerk of the
7 court shall collect a juror fund fee, as fixed by the county
8 board, from each plaintiff and defendant in an action. Within
9 180 days after the effective date of this amendatory Act of the
10 96th General Assembly, the county board must conduct an
11 acceptable cost study and set and impose an initial juror fund
12 fee justified by that cost study as sufficient to pay the
13 increased amount of the juror fees as provided in this
14 amendatory Act of the 96th General Assembly. The county board
15 may thereafter adjust the amount of the juror fund fee, but any
16 increase must be justified by an acceptable cost study showing
17 that the then current fee is not sufficient to cover the costs
18 of juror fees.

19 The clerk shall deposit all of the juror fund fees
20 collected into a special county fund, the County Juror Fund,
21 which shall be used solely for the purpose of funding juror
22 fees in accordance with this Section. Within 10 business days
23 after the juror fund fee is initially imposed, and each month
24 thereafter, the county treasurer must transfer one-twelfth of
25 the base amount from the county treasury into the Fund. The
26 "base amount" is the total amount of all juror fees paid from

1 the county treasury during the 12-month period immediately
2 preceding the month in which the juror fund fee is initially
3 imposed. All moneys in the Fund and all income earned on those
4 moneys shall remain in the Fund and shall be available for
5 appropriation by the county board from fiscal year to fiscal
6 year for the purposes provided in this Section.

7 The following parties are exempt from payment of juror fund
8 fees:

9 (i) governmental entities;

10 (ii) pro se litigants;

11 (iii) parties to small claims actions;

12 (iv) parties seeking veterans' benefits or
13 compensation for a veteran or for a veteran's family member
14 or designee;

15 (v) parties to recoupment actions for
16 government-backed educational loans or mortgages;

17 (vi) parties to child custody or child support cases;

18 (vii) parties to actions under the Illinois Domestic
19 Violence Act of 1986;

20 (viii) parties granted leave to commence and prosecute
21 or to defend an action as a poor person without the payment
22 of costs and expenses; and

23 (ix) parties to any other filings designated by Supreme
24 Court rule that involve minimal use of court resources and
25 that are not customarily afforded the opportunity for a
26 trial by jury.

1 In a class action, the court shall determine the amount of
2 the fee, if any, to be charged to each plaintiff and defendant
3 as equity requires.

4 The clerk of the court shall furnish to each juror without
5 fee whenever the juror ~~he~~ is discharged a certificate of the
6 number of days' attendance at court, and upon presentation
7 thereof to the county treasurer, the county treasurer ~~he~~ shall
8 pay to the juror the sum provided for the juror's ~~his~~ service.

9 All counties, including home rule units, must comply with
10 the requirements of this Section. Juror fees may not be set,
11 administered, or paid in a manner inconsistent with this
12 Section. This Section is a limitation under subsection (i) of
13 Section 6 of Article VII of the Illinois Constitution on the
14 concurrent exercise by home rule units of powers and functions
15 exercised by the State.

16 (Source: P.A. 91-321, eff. 1-1-00.)

17 Section 10. The Jury Act is amended by changing Sections
18 4.1, 5, 8, 10.2, and 15 and adding Section 10.4 as follows:

19 (705 ILCS 305/4.1) (from Ch. 78, par. 4.1)

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

21 (a) Any person who is not legally disqualified to serve on
22 juries, and has been duly summoned for jury duty for either
23 petit or grand jury service, shall not be required or requested
24 to use annual, vacation, or sick leave for time spent

1 responding to a summons for jury duty, time spent participating
2 in the jury selection process, or time spent actually serving
3 on a jury ~~be given time off from employment to serve upon the~~
4 ~~jury~~ for which such employee is summoned, regardless of the
5 employment shift such employee is assigned to at the time of
6 service of such summons. An employee shall give his employer
7 reasonable notice of required jury service. An employer may not
8 deny an employee time off for jury duty because such employee
9 is then assigned to work a night shift of employment, that is,
10 an employer cannot require a night shift worker to work while
11 such employee is doing jury duty in the daytime. Nothing in
12 this subsection (a) shall be construed to require an employer
13 to provide annual, vacation, or sick leave to employees under
14 the provisions of this Section who otherwise are not entitled
15 to such benefits under company policies.

16 (b) No employer shall discharge, threaten to discharge,
17 intimidate or coerce any employee by reason of the employee's
18 jury service, or the attendance or scheduled attendance in
19 connection with such service, in any court of this State.

20 (c) If an employee gives reasonable notice of required jury
21 service, any employer who violates the provisions of this
22 Section:

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

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

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

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

11 (d) Any individual who is reinstated to a position of
12 employment in accordance with this Section shall be considered
13 as having been on furlough or leave of absence during his
14 period of jury service, shall be reinstated to his position of
15 employment without loss of seniority, and shall be entitled to
16 participate in insurance or other benefits offered by the
17 employer under established rules and practices relating to
18 employees on furlough or leave of absence in effect with the
19 employer at the time the individual entered upon jury service.

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

23 (f) Any right or remedy provided in this Section is in
24 addition to any right or remedy otherwise provided by law to an
25 employee.

26 (g) No employer shall be obligated to compensate an

1 employee for time taken off for jury duty.

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

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

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

13 (705 ILCS 305/5) (from Ch. 78, par. 5)

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

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

1 (b) In counties with populations greater than 100,000,
2 service of prospective petit jurors shall be for no more than
3 one court day in actual attendance, unless a prospective petit
4 juror is selected to serve on a jury or is under consideration
5 to serve on a jury and such consideration covers a period of 2
6 or more days. Once selected, a petit juror shall serve on the
7 jury for the duration of the trial unless excused by the
8 presiding judge.

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

10 (705 ILCS 305/8) (from Ch. 78, par. 8)

11 Sec. 8. Selection from box.

12 (a) Upon a day designated by the judge of the court, which
13 shall be at least 20 days before the first day for which any of
14 the panel then to be drawn is summoned, the clerk of such court
15 shall repair to the office of the county clerk, and in the
16 presence of a judge and of such county clerk, after the box
17 containing the names has been well shaken by the county clerk,
18 and being blindfolded shall, without partiality, draw from such
19 box the names of a sufficient number of such persons, then
20 residents of the county, not less than 30 for each 2 weeks that
21 such court will probably be in session for the trial of common
22 law cases, to constitute the petit jurors for the time being
23 and where there is an additional judge in such court, a like
24 number for each additional judge requiring a jury, unless the
25 court shall otherwise order: Provided, that the clerk shall at

1 any time, when directed by an order of the court draw in the
2 manner above provided, such number of persons then residents of
3 the county, as shall be required by the order to act as petit
4 jurors in such court for such time as may be fixed in such
5 order: And provided, that should the clerk draw from the box
6 the name of a person who is known to be dead, to have been
7 selected as a grand juror, a non-resident, absent from the
8 State, ~~unable to attend in consequence of illness,~~ or that he
9 is legally disqualified to serve as a juror, the clerk shall
10 report the name of such person to the county clerk, and the
11 clerk of such court shall draw other names until the required
12 number have been selected: Provided, also that whenever there
13 is pending for trial in any of the courts, any criminal cause
14 wherein the defendant is charged with a felony, and the judge
15 holding such court is convinced from the circumstances of the
16 case that a jury cannot be obtained from the regular panel to
17 try the cause, the judge may in his discretion, prior to the
18 day fixed for the trial of the cause, direct the clerk to draw
19 (in the same manner as the regular panel is drawn,) not
20 exceeding 100 names as a special panel from which a jury may be
21 selected to try the cause.

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

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

25 (705 ILCS 305/10.2) (from Ch. 78, par. 10.2)

1 Sec. 10.2. Excusing prospective jurors; hardship.

2 (a) An individual may apply to be excused from jury service
3 for a period of up to 24 months, instead of seeking a
4 postponement, when either: ~~The county boards of the respective~~
5 ~~counties, the jury commissioners for those counties which have~~
6 ~~been appointed under the Jury Commission Act, or a jury~~
7 ~~administrator shall submit questionnaires to prospective~~
8 ~~jurors to inquire as to their qualifications for jury service~~
9 ~~and as to the hardship that jury service would pose to the~~
10 ~~prospective jurors. Upon prior approval by the chief judge of~~
11 ~~the judicial circuits in which a county board, jury~~
12 ~~administrator, or jury commissioners are situated, the county~~
13 ~~board, jury administrator, or jury commissioners shall excuse a~~
14 ~~prospective juror from jury service if the prospective juror~~
15 ~~shows that such service would impose an undue hardship on~~
16 ~~account of the nature of the prospective juror's occupation,~~
17 ~~business affairs, physical health, family situation, active~~
18 ~~duty in the Illinois National Guard or Illinois Naval Militia,~~
19 ~~or other personal affairs, and cause his or her name to be~~
20 ~~returned to the jury list or general jury list.~~

21 (1) The prospective juror has a mental or physical
22 condition that causes him or her to be incapable of
23 performing jury service. The juror, or the juror's personal
24 representative, must provide the court with documentation
25 from a physician licensed to practice medicine in all its
26 branches verifying that a mental or physical condition

1 renders the person unfit for jury service for a period of
2 not less than the 24 month period for which the excuse is
3 sought; or

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

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

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

20 (1) Be required to abandon a person under his or her
21 personal care or supervision due to the impossibility of
22 obtaining an appropriate substitute caregiver during the
23 period of participation in the jury pool or on the jury; or

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

1 principal means of support; or

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

4 "Undue or extreme physical or financial hardship" does not
5 exist solely based on the fact that a prospective juror will be
6 required to be absent from his or her place of employment.

7 A person asking a judge to grant an excuse based on "undue
8 or extreme physical or financial hardship" shall be required to
9 provide the judge with documentation, such as, but not limited
10 to, federal and State income tax returns, medical statements
11 from licensed physicians, proof of dependency or guardianship,
12 and similar documents, which the judge finds to clearly support
13 the request to be excused. Failure to provide satisfactory
14 documentation shall result in a denial of the request to be
15 excused.

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 judge determines that the underlying grounds for being excused
21 are of a permanent nature.

22 (e) ~~(b)~~ When an undue hardship caused by a family situation
23 is due to the prospective juror being the primary care giver of
24 a person with a mental or physical disability, a person with a
25 medically diagnosed behavior problem, or a child under age 12,
26 then the county board, jury commissioners or jury administrator

1 shall excuse such a prospective juror, if it finds that no
2 reasonable alternative care is feasible which would not impose
3 an undue hardship on the prospective juror or the person for
4 whom the prospective juror is providing care, or both.

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

6 (705 ILCS 305/10.4 new)

7 Sec. 10.4. Postponement of jury service.

8 (a) Notwithstanding Section 10.2 or any other provision of
9 this Act, individuals scheduled to appear for jury service have
10 the right to postpone the date of their initial appearance for
11 jury service one time only. When requested, postponements shall
12 be granted, provided that:

13 (1) The juror has not previously been granted a
14 postponement;

15 (2) The prospective juror appears in person or contacts
16 the clerk of the court by telephone, electronic mail, or in
17 writing to request a postponement; and

18 (3) Prior to the grant of a postponement with the
19 concurrence of the clerk of the court, the prospective
20 juror fixes a date certain on which he or she will appear
21 for jury service that is not more than 6 months after the
22 date on which the prospective juror originally was called
23 to serve and on which date the court will be in session.

24 (b) A subsequent request to postpone jury service may be
25 approved by a judicial officer only in the event of an extreme

1 emergency, such as a death in the family, sudden illness, a
2 natural disaster or a national emergency in which the
3 prospective juror is personally involved, that could not have
4 been anticipated at the time the initial postponement was
5 granted. Prior to the grant of a second postponement, the
6 prospective juror must fix a date certain on which the
7 individual will appear for jury service within 6 months of the
8 postponement on a date when the court will be in session.

9 (705 ILCS 305/15) (from Ch. 78, par. 15)

10 Sec. 15. Failure to attend; misdemeanor. Every person who
11 shall fail to attend when lawfully summoned to appear as a
12 grand or petit juror, without having properly obtained
13 postponement or excuse pursuant to Sections 10.2 and 10.4 a
14 reasonable excuse, shall be considered as is guilty of a Class
15 C misdemeanor and subject to imprisonment or fine of up to \$500
16 in accordance with the laws of this State ~~contempt, and shall~~
17 ~~be fined by the courts, respectively, in any sum not less than~~
18 ~~\$5 nor more than \$100, for the use of the proper county, unless~~
19 ~~good cause be shown for such default; and it shall be the duty~~
20 ~~of the court to enter an order of attachment, returnable~~
21 ~~forthwith, against all such delinquents, and upon the return~~
22 ~~thereof the court shall proceed to assess the fine unless the~~
23 ~~person or persons so attached shall show good cause for such~~
24 ~~delinquency: Provided, that the oath or affirmation of any such~~
25 ~~delinquent shall, at all times, be received as competent~~

1 ~~evidence.~~

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

3 Section 90. The State Mandates Act is amended by adding
4 Section 8.33 as follows:

5 (30 ILCS 805/8.33 new)

6 Sec. 8.33. Exempt mandate. Notwithstanding Sections 6 and 8
7 of this Act, no reimbursement by the State is required for the
8 implementation of any mandate created by this amendatory Act of
9 the 96th General Assembly.

10 Section 97. Severability. The provisions of this Act are
11 severable under Section 1.31 of the Statute on Statutes. If any
12 portion of this Act is declared unconstitutional or the
13 application of any part of this Act to any person or
14 circumstance is held invalid, the remaining portions of the Act
15 and their applicability to any person or circumstance shall
16 remain valid and enforceable.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.

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6	705 ILCS 305/8	from Ch. 78, par. 8
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