

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2574 Session of
1992

INTRODUCED BY CALTAGIRONE, GAMBLE, CORRIGAN, VAN HORNE,
GIGLIOTTI, PESCI, KRUSZEWSKI, FEE, D. W. SNYDER, KOSINSKI,
STURLA, SEMMEL, DeLUCA, MELIO, PRESTON, COWELL, LaGROTTA AND
STABACK, MARCH 30, 1992

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 30, 1992

AN ACT

1 Amending the act of July 20, 1917 (P.L.1158, No.401), entitled
2 "An act to fix, regulate, and establish the fees to be
3 charged and received by constables in this Commonwealth,"
4 changing fees and adding provisions relating to training and
5 certification; and making a repeal.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 1 of the act of July 20, 1917 (P.L.1158,
9 No.401), referred to as the Constable Fee Law, amended July 9,
10 1987 (P.L.243, No.46), is amended to read:

11 Section 1. Be it enacted, &c., That, from and after the
12 passage of this act, the fees to be charged and received by
13 constables in this Commonwealth shall be as follows:

14 [For executing a warrant on behalf of the Commonwealth or a
15 political subdivision thereof, for each defendant, five dollars
16 plus fifteen cents for each mile.

17 For conveying defendants, except vagrants, to jail, on
18 mittimus or warrants, for each defendant, five dollars plus

1 fifteen cents per mile. Where more than one defendant is
2 conveyed simultaneously, the constable shall be reimbursed only
3 for the miles actually traveled. In no case shall the constable
4 be reimbursed for the mileage as if each defendant were conveyed
5 separately.

6 For arresting persons guilty of a breach of the peace,
7 riotous or disorderly conduct, drunkenness, or who may be
8 engaged in the commission of any unlawful act tending to imperil
9 the personal security or endanger the property of the citizens,
10 or violating any ordinance of any borough, township or political
11 subdivision, for the violation of which a fine or penalty is
12 imposed, or offending or suspected of offending against the laws
13 of this Commonwealth, protecting timberlands, or the violation
14 of any other law of this Commonwealth authorizing arrest by
15 constable without process, and bringing such offender before a
16 justice of the peace, for each defendant, five dollars; and for
17 every act in or about the arrest or commitment of vagrants, five
18 dollars for each vagrant so arrested, or arrested and committed,
19 and mileage as hereinafter provided.

20 For levying a fine or forfeiture on a warrant, fifty cents.

21 For taking the body of a defendant into custody on a warrant,
22 where bail is afterwards entered before delivery of body to the
23 jailer, five dollars.

24 For executing discharge to jailer, five dollars.

25 For executing bail-piece, two dollars fifty cents.

26 For executing a search-warrant, and making return thereon,
27 one dollar.

28 For making returns to the court of common pleas, two dollars
29 and fifty cents.

30 For serving summons, complaints, notices on suitor or tenant,

1 either personally or by leaving copy, five dollars plus one
2 dollar fifty cents for each additional defendant.

3 For serving subpoena, in all cases, five dollars for the
4 first witness, plus fifteen cents for each mile, plus two
5 dollars for each additional witness.

6 For executing landlord's warrant, three dollars.

7 For taking inventory of goods, each item, two cents.

8 For levying or distraining goods, including schedule of
9 property levied upon and set aside, fifteen dollars.

10 For advertising personal property to public sale, two dollars
11 and fifty cents.

12 For appraisement on landlord's distraint, five dollars.

13 For posting notice of execution sale or sale on landlord's
14 distraint and advertisement, plus actual cost of advertising,
15 five dollars.

16 For selling goods levied or distrained, ten dollars.

17 For clerk hire at said sales, when necessary, ten dollars per
18 day.

19 For watchman taking charge of property levied on, when
20 necessary, ten dollars per day, also reasonable expenses of
21 insurance, arranging goods for sale, heat, light, storage, rent,
22 transportation, feeding livestock, and similar expenses incurred
23 in caring for and keeping goods and chattels levied upon, when
24 the same is necessary and advantageous, or when requested by the
25 plaintiff or defendant to incur such expense.

26 For receiving and paying over money paid after a levy,
27 without sale, one dollar and fifty cents.

28 For bill of sale, when demanded, each item two cents.

29 For putting up notice of distress on the premises, fifty
30 cents.

1 For making return of no levy or not found on any process, one
2 dollar fifty cents.

3 For executing order for possession, seven dollars.

4 For forcible ejectment on order for possession, twenty-five
5 dollars.

6 For serving complaint in landlord and tenant proceedings,
7 five dollars.

8 For taking inventory of goods on an execution, each item, two
9 cents.

10 For appraising property where exemption is claimed by
11 defendant, one dollar.

12 For traveling expenses in the performance of any duty or
13 service hereinbefore set forth, or in the performance of any
14 other duty or service required by law, each mile going and
15 returning, fifteen cents to be computed by the route usually
16 traveled in going from points and places where said constables
17 may reside, or where he receives any paper to be executed, to
18 the points or places required to be traveled: Provided, That in
19 no case shall more mileage be demanded or received than for the
20 miles actually traveled except that in all political
21 subdivisions other than cities of the first class a minimum fee
22 of one dollar fifty cents shall be allowed as mileage.

23 For services not herein specially provided for the same fee
24 may be charged and received as for similar services.]

25 (a) Actual mileage for travel by motor vehicle shall be
26 reimbursed at a rate equal to the highest rate allowed by the
27 Internal Revenue Service. If travel is by other than motor
28 vehicle, reimbursement shall be for actual, vouchered travel
29 expenses.

30 (b) If more than one defendant is transported

1 simultaneously, reimbursements shall be for actual miles
2 traveled and the cost shall be divided between or among the
3 defendants.

4 (c) A constable or deputy constable, when he is transporting
5 a prisoner, serving a warrant in a court case or serving a
6 warrant on a defendant of the opposite sex, may be accompanied
7 by a second constable or deputy constable who is certified
8 pursuant to this act. In such cases, each officer shall receive
9 the fee set by this section. In other civil and criminal cases,
10 the issuing authority may authorize such a payment to a second
11 officer.

12 (d) In civil cases, constable fees must be paid in advance
13 for services desired to be performed. Such fees shall not be
14 refundable to the plaintiff if a case is settled or a debt is
15 satisfied less than forty-eight hours prior to a scheduled sale
16 or ejectment, in which case the constable or deputy constable
17 shall be paid for holding the sale or carrying out a nonforcible
18 ejectment, respectively.

19 (e) Fees shall be paid to the constable as soon as possible,
20 and in no case more than fifteen days after the latter of the
21 following occurs: (1) the service is performed; and (2) the
22 request for payment is submitted.

23 (f) Fees in civil cases shall be as follows:

24 (1) For serving a complaint, summons or notice on suitor or
25 tenant, either personally or by leaving a copy, ten dollars,
26 plus five dollars for each additional tenant at the same
27 address.

28 (2) For serving subpoenas, ten dollars for the first
29 witness, plus two dollars and fifty cents for each additional
30 witness at the same address. The same fee shall be payable for

1 attempting to serve subpoenas at a wrong address supplied by the
2 plaintiff.

3 (3) For levying goods, including schedule of property levied
4 upon and set aside, thirty-five dollars.

5 (4) For advertising personal property to public sale, five
6 dollars per posting (maximum of fifteen dollars) plus actual
7 cost of advertising.

8 (5) For selling goods levied, thirty-five dollars.

9 (6) For clerk hired at sale, twenty dollars.

10 (7) For making return of not found or nulla bona (no goods),
11 ten dollars.

12 (8) For executing order of possession, ten dollars.

13 (9) For nonforcible ejectment on order of possession,
14 thirty-five dollars.

15 (10) For forcible ejectment, seventy dollars.

16 (11) For making return of service, other than not found or
17 nulla bona (no goods), two dollars and fifty cents.

18 (12) For providing courtroom security as ordered, ten
19 dollars per hour.

20 (g) Fees in criminal cases shall be as follows:

21 (1) For executing a warrant, fifteen dollars per warrant.

22 (2) For taking custody of a defendant, five dollars per
23 defendant.

24 (3) For conveyance of defendant to or from court, five
25 dollars per defendant.

26 (4) For attendance at arraignment or hearing, five dollars
27 per defendant.

28 (5) For executing discharge, five dollars per defendant.

29 (6) For executing commitment, five dollars per defendant.

30 (7) For executing release, five dollars per defendant.

1 (8) For making returns to the court of process served or non
2 est inventus (not found), two dollars and fifty cents.

3 (9) For holding a defendant while awaiting the arrival of
4 the district justice at his or her office, ten dollars per
5 defendant per hour beyond the first half hour, assessed to the
6 court.

7 (10) For conveying defendants for fingerprinting, five
8 dollars per defendant.

9 (11) For fingerprinting or overseeing the fingerprinting of
10 defendants at the direction of the district justice, ten dollars
11 per defendant, plus ten dollars per defendant per hour beyond
12 the first half hour.

13 (12) For providing courtroom security as ordered, ten
14 dollars per hour.

15 (h) For civil and criminal services not specifically
16 provided for, the court shall pay the same fee as it pays for
17 services provided for herein which it determines to be similar
18 to those performed.

19 (i) The board may, with the review and approval of the
20 commission, authorize higher fees to be charged and received by
21 constables and deputy constables than those provided herein.

22 (j) In all criminal cases wherein the defendant is
23 discharged or indigent, or the case is dismissed, the court
24 shall assess to the county the fee provided in this section,
25 except that, in cases of private criminal complaints wherein the
26 defendant is discharged prior to the indictment or the filing of
27 any information, or the case is otherwise dismissed at the
28 summary offense hearing, the court shall assess the fee to the
29 affiant.

30 Section 2. The act is amended by adding sections to read:

1 Section 1.1 No constable or deputy constable shall demand or
2 receive any fee, surcharge or mileage provided by this act
3 unless he or she has been certified pursuant to this act.

4 Section 1.2 The following words and phrases when used in
5 this act shall have the meanings given to them in this section
6 unless the context clearly indicates otherwise:

7 "Account." The Constables' Education and Training Account
8 established in section 1.9.

9 "Board." The Constables' Education and Training Board
10 established in section 1.3.

11 "Commission." The Pennsylvania Commission on Crime and
12 Delinquency of the Commonwealth.

13 "Term of office of a deputy constable." The term of office
14 of the constable who appointed him or her.

15 Section 1.3. (a) There is hereby established within the
16 commission an advisory board to be known as the Constables
17 Education and Training Board.

18 (b) The board shall be composed of seven members, with one
19 appointed by each of the following:

20 (1) The Governor.

21 (2) The President pro tempore of the Senate.

22 (3) The Speaker of the House of Representatives.

23 (4) The Majority Leader of the Senate.

24 (5) The Majority Leader of the House of Representatives.

25 (6) The Minority Leader of the Senate.

26 (7) The Minority Leader of the House of Representatives.

27 (c) Appointments and terms.--Every member of the board, at
28 the time of his or her appointment or reappointment to the
29 board, shall be either: (i) a constable; or (ii) a member of
30 the bar of the Supreme Court of Pennsylvania who served

1 previously as a constable.
2 Officials and employees of the Commonwealth or of any political
3 subdivision, if qualified as herein provided, shall be eligible
4 for membership on the board. All members of the board shall
5 serve for a period of three years, except that the first persons
6 appointed by the Majority Leader of the Senate and the Majority
7 Leader of the House of Representatives shall serve for a period
8 of two years, and the first persons appointed by the Minority
9 Leader of the Senate and the Minority Leader of the House of
10 Representatives shall serve for a period of one year. Members of
11 the board appointed or reappointed under clause (i) may complete
12 their term of office on the board if they cease to be a
13 constable but may not be reappointed thereafter; provided,
14 however, that no constable may be appointed, be reappointed, or
15 serve as a board member unless he or she is certified pursuant
16 to this act; failure of a board member to be current in his or
17 her certification shall result in the immediate and automatic
18 forfeiture of board membership.

19 (d) A member appointed to fill a vacancy created by any
20 reason other than expiration of a term shall be appointed for
21 the unexpired term of the member whom he or she is to succeed in
22 the same manner as the original appointment.

23 (e) The members of the board shall serve without
24 compensation but shall be reimbursed the necessary and actual
25 expenses incurred in attending meetings of the board and in the
26 performance of their duties under this act.

27 (f) Members of the board may be removed by the appointing
28 authority for good cause upon written notice from such
29 appointing authority specifically setting forth the cause for
30 removal.

1 (g) The members of the board shall elect a chairman from
2 among the members to serve for a period of one year. A chairman
3 may be elected to serve successive terms. The Governor shall
4 designate the first chairman for organizational purposes only.

5 (h) The chairman shall summon the members of the board to
6 the first meeting within thirty days after his appointment, or
7 within thirty days after the appointment of a sufficient number
8 of members to constitute a quorum, whichever is later. The board
9 shall meet as often as it deems necessary but at least four
10 times each year. Meetings may be called by the chairman of the
11 board or by any four members thereof, in either case upon at
12 least ten day's written notice to all members of the board. A
13 quorum shall consist of four members.

14 Section 1.4. The board, with the review and approval of the
15 commission, shall:

16 (a) Establish, implement and administer the Constables'
17 Education and Training Program according to the minimum
18 requirements set forth in this act.

19 (b) Establish, implement and administer requirements for the
20 minimum courses of study and training for constables and deputy
21 constables.

22 (c) Establish, implement and administer requirements for
23 courses of study and in-service training for constables and
24 deputy constables.

25 (d) Establish, implement and administer requirements for a
26 continuing education program for constables and deputy
27 constables concerning subjects the board may deem necessary and
28 appropriate for the continued education and training of
29 constables and deputy constables.

30 (e) Approve or revoke the approval of any school which may

1 be utilized for the educational and training requirements of
2 this act.

3 (f) Establish the minimum qualifications for instructors and
4 certify instructors.

5 (g) Consult and cooperate, and may contract, with
6 universities, colleges, law schools, community colleges and
7 institutes for the development of basic and continuing education
8 courses for constables and deputy constables.

9 (h) Promote the most efficient and economical program for
10 constable and deputy constable training by utilizing existing
11 facilities, programs and qualified State and local personnel.

12 (i) Certify constables and deputy constables who have
13 satisfactorily completed the basic and continuing education and
14 training requirements of this act and issue appropriate
15 certificates to them.

16 (j) Make rules and regulations and perform other duties as
17 may be reasonably necessary or appropriate to administer the
18 education and training program for constables and deputy
19 constables.

20 (k) Make an annual report to the Governor and to the General
21 Assembly concerning:

22 (1) The administration of the Constables' Education and
23 Training Program.

24 (2) The activities of the board.

25 (3) The costs of the program.

26 (4) Proposed changes, if any, in this act.

27 Section 1.5. The Constables' Education and Training Program
28 shall include training for a total of eighty hours, the content
29 of which shall be determined by regulation. Any constable or
30 deputy who is in office as of the effective date of this

1 amendatory act shall be afforded one and only one opportunity,
2 prior to the expiration of his current term, to satisfactorily
3 complete this program by examination without the necessity of
4 class attendance.

5 Section 1.6. The board, with the review and approval of the
6 commission, shall establish a mandatory continuing education
7 program for constables and deputy constables, which shall
8 include no more than forty hours per year, concerning subjects
9 the board may deem necessary and appropriate for the continued
10 education and training of constables and deputy constables.

11 Section 1.7. All constables and deputy constables who are in
12 office as of the effective date of this amendatory act shall be
13 deemed for all purposes to be certified pursuant to this act for
14 the balance of their current term of office.

15 Section 1.8. No constable or deputy constable shall carry or
16 use a firearm in the performance of his or her duties unless he
17 or she is currently certified or qualified in firearms pursuant
18 to at least one of the following:

19 (a) The act of June 18, 1974 (P.L.359, No.120), referred to
20 as the Municipal Police Education and Training Law.

21 (b) The act of October 10, 1974 (P.L.705, No.235), known as
22 the Lethal Weapons Training Act.

23 (c) The act of February 9, 1984 (P.L.3, No.2), known as the
24 Deputy Sheriffs' Education and Training Act.

25 (d) Any other firearms program which has been approved by
26 the board with the review and approval of the commission.

27 Section 1.9. (a) There is hereby established a special
28 restricted account within the General Fund of the State
29 Treasury, which shall be know as the Constables' Education and
30 Training Account, for the purposes of financing training program

1 expenses, the costs of administering the program and all other
2 costs associated with the activities of the board and the
3 implementation of this act.

4 (b) There is hereby assessed a surcharge of two dollars on
5 each fee payable for each service lawfully performed or to be
6 performed by every constable or deputy constable, except that no
7 county shall be required to pay this surcharge on behalf of any
8 indigent or other defendant in a criminal case.

9 (c) The surcharges collected under subsection (b), if
10 collected by a constable or deputy constable, shall be turned
11 over within one week to the issuing authority. The issuing
12 authority shall, within one week of collecting or receiving any
13 surcharges, remit the same to the Department of Revenue for
14 deposit into the account.

15 (d) Disbursements from the account shall be made by the
16 commission.

17 (e) The Auditor General shall conduct an audit of the
18 account as he or she may deem necessary or advisable from time
19 to time, but not less than once every three years.

20 Section 3. The act of November 29, 1990 (P.L.574, No.147),
21 entitled, "An act amending Title 42 (Judiciary and Judicial
22 Procedure) of the Pennsylvania Consolidated Statutes, further
23 providing for the jurisdiction of the Philadelphia Municipal
24 Court; and adding provisions relating to constables," is
25 repealed.

26 Section 4. This act shall take effect as follows:

27 (1) Section 3 of this act shall take effect immediately.

28 (2) The remainder of this act shall take effect in 30
29 days.