

HB 1003

AN ACT

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for the Constables' Education and Training Program and for conduct and insurance for constables; and making repeals.

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

Section 1. Chapter 29 of Title 42 of the Pennsylvania Consolidated Statutes is amended by adding a subchapter to read:

CHAPTER 29
OFFICERS SERVING PROCESS AND
ENFORCING ORDERS

* * *

SUBCHAPTER C
CONSTABLES

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§ 2941. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Account." The Constables' Education and Training Account established in section 2949 (relating to restricted account).

"Board." The Constables' Education and Training Board established in section 2943 (relating to board established).

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

"Court." The minor judiciary or any other court in this Commonwealth.

"Judicial duties." Those services specified in section 2950 (relating to fees).

"Term of office of a deputy constable." The term of office of the constable who appointed him.

§ 2942. Conduct and insurance.

(a) Certification.--After the establishment, implementation and administration of the Constables' Education and Training Program created under sections 2944 (relating to program established) and 2945 (relating to program contents), no constable or deputy constable shall perform any judicial duties nor demand or receive any fee, surcharge or mileage provided by this subchapter unless he has been certified under this subchapter.

(b) Liability insurance.--Every constable and deputy constable must file with the clerk of courts proof that he has, currently in force, a policy of professional liability insurance covering each individual in the performance of his judicial duties with a minimum coverage of \$250,000 per incident and a minimum aggregate of \$500,000 per year. However, no constable or deputy constable shall be required to file such proof until six months after the effective date of this act. The Constables' Education and Training Board shall immediately investigate and implement the most cost-effective method of achieving liability insurance for constables and deputy constables under this subsection.

(c) Loss of certification.--Any constable or deputy constable who fails, neglects or refuses to maintain a current insurance policy as required by subsection (b) or to file proof thereof with the clerk of courts shall cease automatically to be certified to perform judicial duties upon the expiration of the policy of which proof has been filed with the clerk of courts.

(d) Recertification.--Any constable or deputy constable who ceases to be certified to perform judicial duties as a result of the operation of subsection (c) may later be recertified immediately by filing with the clerk of courts proof that such insurance has been in force continuously since the officer was last certified to perform judicial duties. In the case of a violation of subsection (c), the individual may be recertified by complying with subsection (b).

(e) Limitations on liability.--The provisions of this subchapter shall not be deemed to impose respondeat superior liability on any county.

(f) Conduct.--While a constable or deputy constable is performing duties other than judicial duties, regardless of whether or not he is certified under this subchapter, he shall not in any manner hold himself out to be active as an agent, employee or representative of any court, district justice or judge.

§ 2943. Board established.

(a) Board created.--There is hereby established within the commission an advisory board to be known as the Constables' Education and Training Board.

(b) Composition.--The board shall be composed of the Pennsylvania State Police Commissioner or his designee and six other members appointed by the Governor with the consent of a majority of the members of the Senate:

- (1) Three persons who shall be constables.
- (2) One person who shall be a district justice.
- (3) One person who shall be a court administrator.
- (4) One person who shall be a county commissioner.

(c) Appointments and terms.--Members shall serve for three-year terms and may be appointed for more than one additional consecutive term. If a member who serves by virtue of public office ceases to represent the class to which he was appointed, his membership in the commission shall terminate immediately, and a new member shall be appointed in the same manner as his predecessor to fill the unexpired portion of the term. No constable may be appointed, be reappointed or serve as a board member unless he is certified under this subchapter.

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

(e) Expenses.--The members of the board shall serve without compensation but shall be reimbursed the necessary and actual expenses incurred in attending meetings of the board and in the performance of their duties under this subchapter.

(f) Removal.--Members of the board may be removed by the appointing authority for good cause upon written notice from the appointing authority specifically setting forth the cause for removal.

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

(h) Meetings.--The chairman shall summon the members of the board to the first meeting within 30 days after his appointment or within 30 days after the appointment of a sufficient number of members to constitute a quorum, whichever is later. The board shall meet as often as it deems necessary but at least four times each year. Meetings may be called by the chairman of the board or by any four members thereof, in either case upon at least ten days' written notice to all members of the board. A quorum shall consist of four members.

§ 2944. Program established.

The board, with the review and approval of the commission, shall:

(1) Establish, implement and administer the Constables' Education and Training Program according to the minimum requirements set forth in this subchapter.

(2) Establish, implement and administer requirements for the minimum courses of study and training for constables and deputy constables.

(3) Establish, implement and administer requirements for courses of study and in-service training for constables and deputy constables.

(4) Establish, implement and administer requirements for a continuing education program for constables and deputy constables concerning subjects the board may deem necessary and appropriate for the continued education and training of constables and deputy constables.

(5) Approve or revoke the approval of any school which may be utilized for the educational and training requirements of this subchapter.

(6) Establish the minimum qualifications for instructors and certify instructors.

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

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

(9) Certify constables and deputy constables who have satisfactorily completed the basic and continuing education and training requirements of this subchapter and issue appropriate certificates to them.

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

(11) In consultation with the Insurance Commissioner, monitor the price and availability of the liability insurance

required by section 2942(b) (relating to conduct and insurance) and, if deemed necessary by the board, provide information and coordination to assure the availability and competitive pricing of such insurance.

(12) Make an annual report to the Governor and to the General Assembly concerning:

(i) The administration of the Constables' Education and Training Program.

(ii) The activities of the board.

(iii) The costs of the program.

(iv) Proposed changes, if any, in this subchapter.

§ 2945. Program contents.

The Constables' Education and Training Program shall include training for a total of 80 hours, the content of which shall be determined by regulation. The training shall include instruction in the interpretation and application of the fees provided for in section 2950 (relating to fees). Any constable or deputy constable who is in office as of the effective date of this subchapter shall be afforded one and only one opportunity prior to the expiration of his current term to satisfactorily complete this program by examination without the necessity of class attendance.

§ 2946. Continuing education.

The board, with the review and approval of the commission, shall establish a mandatory continuing education program for constables and deputy constables, which shall include no more than 40 hours per year, concerning subjects the board may deem necessary and appropriate for the continued education and training of constables and deputy constables.

§ 2947. Automatic certification.

All constables and deputy constables who are in office as of the effective date of this subchapter shall be deemed to be certified under and in compliance with sections 2945 (relating to program contents) and 2946 (relating to continuing education) for the balance of their current term of office or until the constables and deputy constables have been provided an opportunity to complete the education and training in accordance with section 2945 or 2946, whichever is sooner.

§ 2948. Use of firearms.

(a) Standards.--The Constables' Education and Training Board, with the review and approval of the Pennsylvania Commission on Crime and Delinquency, shall establish standards for the certification or qualification of constables and deputy constables to carry or use firearms in the performance of any duties.

(b) Certification and qualification.--Until such time as the board establishes the standards pursuant to subsection (a), no constable or deputy constable shall carry or use a firearm in the performance of any duties unless he is currently certified or qualified in firearms under at least one of the following:

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

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

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

(c) Availability.--In accordance with subsection (b), the firearms portion of the education and training under the listed laws shall be made available to constables and deputy constables.

§ 2949. Restricted account.

(a) Account established.--There is hereby established a special restricted account within the General Fund, which shall be known as the Constables' Education and Training Account, for the purposes of financing training program expenses, the costs of administering the program and all other costs associated with the activities of the board and the implementation of this subchapter.

(b) Surcharge.--There is hereby assessed as a cost in each case before a district justice a surcharge of \$5 per docket number in each criminal case and \$5 per named defendant in each civil case in which a constable or deputy constable performs a service provided in this subchapter, except that no county shall be required to pay this surcharge on behalf of any indigent or other defendant in a criminal case.

(c) Disposition of funds.--The surcharges collected under subsection (b), if collected by a constable or deputy constable shall be turned over within one week to the issuing authority. The issuing authority shall remit the same to the Department of Revenue for deposit into the account.

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

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

§ 2950. Fees.

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

(b) Apportionment.--If more than one defendant is transported simultaneously, reimbursements shall be for actual miles traveled, and the cost shall be divided between or among the defendants.

(c) Additional persons.--A constable or deputy constable when he is transporting a prisoner, serving a warrant other than for a summary offense or serving a warrant on a defendant of the opposite sex may, at his discretion, be accompanied by a second constable or deputy constable who is certified under section 2947 (relating to automatic certification) to perform judicial duties. In such cases, each officer shall receive the fee set out in this section. In all other civil and criminal cases, the issuing authority may authorize payment to a second officer.

(d) Civil cases.--In civil cases, constable fees must be paid in advance to the court for services desired to be performed. These fees shall not be refundable to the plaintiff if a case is settled or a debt is satisfied less than 48 hours prior to a scheduled sale or ejectment, in which latter case the constable or deputy constable shall be paid for holding the sale or carrying out an ejectment, respectively.

(e) Payment.--Fees shall be paid by the court to the constable as soon as possible and in no case not more than 15 days in civil cases and 30 days in criminal cases after the service is performed and a proper request for payment is submitted, provided that, in criminal cases where the books and accounts of the relevant county offices are payable on a monthly basis, payment shall be made not more than 15 days after the close of the month.

(f) Specific fees.--Fees in civil cases shall be as follows:

(1) For serving complaint, summons or notice on suitor or tenant, either personally or by leaving a copy, \$10 plus \$5 for each additional defendant at the same address.

(2) For levying goods, including schedule of property levied upon and set aside, \$35.

(3) For advertising personal property to public sale, \$5 per posting (maximum of \$15) plus actual cost of advertising.

(4) For selling goods levied, \$35.

(5) For clerk at sale, \$20.

(6) For making return of not found, \$10.

(7) For executing order of possession, \$10.

(8) For ejectment, \$70.

(9) For making return of service, other than not found, \$2.50.

(10) For providing courtroom security as ordered, \$10 per hour, prorated to the nearest whole dollar, assessed against one or more parties as determined by the court.

(g) Criminal cases.--Fees in criminal cases shall be as follows:

(1) For executing a warrant or for effectuating the payment of fines and costs by attempting to execute a warrant, \$15 per warrant.

(2) For taking custody of a defendant, \$5 per defendant.

(3) For conveyance of defendant to or from court, \$5 per defendant.

(4) For attendance at arraignment or hearing, \$5 per defendant.

(5) For executing discharge, \$5 per defendant.

(6) For executing commitment, \$5 per defendant.

(7) For executing release, \$5 per defendant.

(8) For making returns to the court, \$2.50.

(9) For holding one or more defendants at the office of the district justice, \$10 per hour beyond the first half hour.

(10) For conveying defendants for fingerprinting, \$5 per defendant.

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

(12) For providing courtroom security as ordered, \$10 per hour, prorated to the nearest whole dollar, assessed against one or more parties as determined by the court.

(13) For serving subpoenas, \$10 for the first witness at each address, plus \$2.50 for each additional witness at the same address. The same fee shall be payable for attempting to service a subpoena at a wrong address supplied by the party requesting the service.

(h) Similar fees.--For civil and criminal services not specifically provided for, the court shall pay the same fees as it pays for services that it determines to be similar to those performed.

(i) Assessment by court.--In all criminal cases wherein the defendant is discharged or indigent, or the case is otherwise dismissed, the court shall assess to the county the fee provided in this section, except that, in cases of private criminal complaints wherein the defendant is discharged prior to the indictment or the filing of any information or the case is otherwise dismissed at the summary offense hearing, the court shall assess the fee to the affiant.

Section 2. Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8 and 1.9 of the act of July 20, 1917 (P.L.1158, No.401), referred to as the Constable Fee Law, are repealed.

Section 3. This act shall take effect immediately.

APPROVED--The 15th day of June, A. D. 1994.

ROBERT P. CASEY