

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 138 Session of
2001

INTRODUCED BY GREENLEAF, COSTA, EARLL, O'PAKE, HOLL, MOWERY,
MURPHY, WAUGH AND SCHWARTZ, JANUARY 26, 2001

AS RE-REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 1, 2002

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for VENUE AND
3 FOR compensation of multicounty investigating grand jurors. <—

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

6 ~~Section 1. Section 4553(b) of Title 42 of the Pennsylvania~~ <—
7 ~~Consolidated Statutes is amended to read:~~

8 SECTION 1. SECTIONS 931(C) AND 4553(B) OF TITLE 42 OF THE <—
9 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

10 § 931. ORIGINAL JURISDICTION AND VENUE.

11 * * *

12 (C) VENUE AND PROCESS.--EXCEPT AS PROVIDED BY SECTION 5105.1
13 (RELATING TO VENUE IN MEDICAL PROFESSIONAL LIABILITY ACTIONS)
14 AND SUBCHAPTER B OF CHAPTER 85 (RELATING TO ACTIONS AGAINST
15 COMMONWEALTH PARTIES), THE VENUE OF A COURT OF COMMON PLEAS
16 CONCERNING MATTERS OVER WHICH JURISDICTION IS CONFERRED BY THIS
17 SECTION SHALL BE AS PRESCRIBED BY GENERAL RULE. THE PROCESS OF

1 THE COURT SHALL EXTEND BEYOND THE TERRITORIAL LIMITS OF THE
2 JUDICIAL DISTRICT TO THE EXTENT PRESCRIBED BY GENERAL RULE.
3 EXCEPT AS OTHERWISE PRESCRIBED BY GENERAL RULE, IN A PROCEEDING
4 TO ENFORCE AN ORDER OF A GOVERNMENT AGENCY THE PROCESS OF THE
5 COURT SHALL EXTEND THROUGHOUT THIS COMMONWEALTH.

6 § 4553. Expenses of investigating grand juries and trials
7 resulting therefrom.

8 * * *

9 (b) Multicounty.--The expenses of any multicounty
10 investigating grand jury shall be borne by the Commonwealth.

11 (1) Multicounty investigating grand jurors shall be
12 compensated at the rate of \$40 for each day that they report
13 for service. Jurors shall be paid a travel allowance at the
14 rate that an employee of the Office of Attorney General on
15 official business would be reimbursed. Jurors shall receive
16 payment of per diem meal expenses in the amounts of \$6 for
17 breakfast, \$10 for lunch and \$25 for dinner for any day or
18 portion thereof that the person is serving as a juror. Only
19 those persons who are required, because of the distance from
20 their residence, to obtain overnight accommodations at the
21 site of the multicounty investigating grand jury shall
22 receive payment of a per diem for breakfast and dinner.

23 (2) [In addition, the] The costs and expenses resulting
24 from any trial of a person against whom a presentment has
25 been issued by a multicounty investigating grand jury shall
26 be borne by the Commonwealth. Costs and expenses under this
27 subsection include, but are not limited to, all reasonable
28 costs incurred by the county for the services of the courts,
29 the trial jury, the sheriff, the clerk of courts, the county
30 prison, the district attorney and any public defender

1 appointed by the court, and related costs and expenses
2 incurred by the county in the course of the trial.

3 (3) Counties shall be reimbursed from the General Fund
4 of the Commonwealth upon application to the State Treasurer
5 through the Office of Attorney General pursuant to procedures
6 prescribed by that office.

7 Section 2. Section 4561 of Title 42 is amended by adding a
8 subsection to read:

9 § 4561. Compensation of and travel allowance for jurors.

10 * * *

11 (c) Definition.--As used in this section, the term "jurors"
12 does not apply to those persons summoned to serve on a
13 multicounty investigating grand jury who are reimbursed under
14 section 4553(b) (relating to expenses of investigating grand
15 juries and trials resulting therefrom).

16 ~~Section 3. This act shall take effect July 1, 2001, or~~ <—
17 ~~immediately, whichever occurs later.~~

18 SECTION 3. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ: <—
19 § 5101.1. VENUE IN MEDICAL PROFESSIONAL LIABILITY ACTIONS.

20 (A) DECLARATION OF POLICY.--IN ACCORDANCE WITH SECTION
21 514(A) OF THE ACT OF MARCH 20, 2002 (P.L.154, NO.13), KNOWN AS
22 THE MEDICAL CARE AVAILABILITY AND REDUCTION OF ERROR (MCARE)
23 ACT, AND AS A MATTER OF PUBLIC POLICY, THE GENERAL ASSEMBLY
24 FURTHER DECLARES THE NEED TO CHANGE THE VENUE REQUIREMENTS FOR
25 MEDICAL PROFESSIONAL LIABILITY ACTIONS.

26 (B) GENERAL RULE.--NOTWITHSTANDING ANY OTHER PROVISION TO
27 THE CONTRARY, A MEDICAL PROFESSIONAL LIABILITY ACTION MAY BE
28 BROUGHT AGAINST A HEALTH CARE PROVIDER FOR A MEDICAL
29 PROFESSIONAL LIABILITY CLAIM ONLY IN THE COUNTY IN WHICH THE
30 CAUSE OF ACTION AROSE.

1 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
2 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
3 SUBSECTION:

4 "BIRTH CENTER." AN ENTITY LICENSED AS A BIRTH CENTER UNDER
5 THE ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN AS THE HEALTH
6 CARE FACILITIES ACT.

7 "HEALTH CARE PROVIDER." A PRIMARY HEALTH CARE CENTER OR A
8 PERSON, INCLUDING A CORPORATION, UNIVERSITY OR OTHER EDUCATIONAL
9 INSTITUTION LICENSED OR APPROVED BY THE COMMONWEALTH TO PROVIDE
10 HEALTH CARE OR PROFESSIONAL MEDICAL SERVICES AS A PHYSICIAN, A
11 CERTIFIED NURSE MIDWIFE, A PODIATRIST, HOSPITAL, NURSING HOME,
12 BIRTH CENTER AND, EXCEPT AS TO SECTION 711(A) OF THE ACT OF
13 MARCH 20, 2002 (P.L.154, NO.13), KNOWN AS THE MEDICAL CARE
14 AVAILABILITY AND REDUCTION OF ERROR (MCARE) ACT, AN OFFICER,
15 EMPLOYEE OR AGENT OF ANY OF THEM ACTING IN THE COURSE AND SCOPE
16 OF EMPLOYMENT.

17 "HOSPITAL." AN ENTITY LICENSED AS A HOSPITAL UNDER THE ACT
18 OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC WELFARE
19 CODE, OR THE ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN AS THE
20 HEALTH CARE FACILITIES ACT.

21 "MEDICAL PROFESSIONAL LIABILITY ACTION." ANY PROCEEDING IN
22 WHICH A MEDICAL PROFESSIONAL LIABILITY CLAIM IS ASSERTED,
23 INCLUDING AN ACTION IN A COURT OF LAW OR AN ARBITRATION
24 PROCEEDING.

25 "MEDICAL PROFESSIONAL LIABILITY CLAIM." ANY CLAIM SEEKING
26 THE RECOVERY OF DAMAGES OR LOSS FROM A HEALTH CARE PROVIDER
27 ARISING OUT OF ANY TORT OR BREACH OF CONTRACT CAUSING INJURY OR
28 DEATH RESULTING FROM THE FURNISHING OF HEALTH CARE SERVICES
29 WHICH WERE OR SHOULD HAVE BEEN PROVIDED.

30 "NURSING HOME." AN ENTITY LICENSED AS A NURSING HOME UNDER

1 THE ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN AS THE HEALTH
2 CARE FACILITIES ACT.

3 "PRIMARY HEALTH CARE CENTER." A COMMUNITY-BASED NONPROFIT
4 CORPORATION MEETING STANDARDS PRESCRIBED BY THE DEPARTMENT OF
5 HEALTH WHICH PROVIDES PREVENTIVE, DIAGNOSTIC, THERAPEUTIC AND
6 BASIC EMERGENCY HEALTH CARE BY LICENSED PRACTITIONERS WHO ARE
7 EMPLOYEES OF THE CORPORATION OR UNDER CONTRACT TO THE
8 CORPORATION.

9 SECTION 4. THE AMENDMENT OR ADDITION OF 42 PA.C.S §§ 931(C)
10 AND 5101.1 SHALL APPLY TO ALL MEDICAL PROFESSIONAL LIABILITY
11 ACTIONS FILED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

12 SECTION 5. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

13 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT IN 60
14 DAYS:

- 15 (I) THE AMENDMENT OF 42 PA.C.S. § 931(C).
16 (II) THE ADDITION OF 42 PA.C.S. § 5101.1
17 (III) SECTION 4 OF THIS ACT.

18 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
19 IMMEDIATELY.