

No. 1992-102

AN ACT

HB 2574

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

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

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

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

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

For conveying defendants, except vagrants, to jail, on mittimus or warrants, for each defendant, five dollars plus fifteen cents per mile. Where more than one defendant is conveyed simultaneously, the constable shall be reimbursed only for the miles actually traveled. In no case shall the constable be reimbursed for the mileage as if each defendant were conveyed separately.

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

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

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

For executing discharge to jailer, five dollars.

For executing bail-piece, two dollars fifty cents.

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

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

For serving summons, complaints, notices on suitor or tenant, either personally or by leaving copy, five dollars plus one dollar fifty cents for each additional defendant.

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

For executing landlord's warrant, three dollars.

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

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

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

For appraisement on landlord's distraint, five dollars.

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

For selling goods levied or distrained, ten dollars.

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

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

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

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

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

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

For executing order for possession, seven dollars.

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

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

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

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

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

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

(a) 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) 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) A constable or deputy constable when he is transporting a prisoner, serving a warrant in a court case 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 pursuant to this act. In such cases, each officer shall receive the fee set by this section. In other civil and criminal cases, the issuing authority may authorize such a payment to a second officer.

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

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

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

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

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

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

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

(5) For clerk hired at sale, twenty dollars.

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

(7) For executing order of possession, ten dollars.

(8) For ejectment, seventy dollars.

(9) For making return of service, other than not found, two dollars and fifty cents.

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

(g) 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, fifteen dollars per warrant.

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

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

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

- (5) *For executing discharge, five dollars per defendant.*
- (6) *For executing commitment, five dollars per defendant.*
- (7) *For executing release, five dollars per defendant.*
- (8) *For making returns to the court, two dollars and fifty cents.*
- (9) *For holding a defendant while awaiting the arrival of the district justice at his or her office, ten dollars per defendant per hour beyond the first half hour, assessed to the court.*
- (10) *For conveying defendants for fingerprinting, five dollars per defendant.*

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

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

(13) *For serving subpoenas, ten dollars for the first witness, plus two dollars and fifty cents for each additional witness at the same address. The same fee shall be payable for attempting to serve subpoenas at a wrong address supplied by the party requesting the service.*

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

(i) *The board may, with the review and approval of the commission, provide interpretations of the fee provisions of this act, establish procedures for the payment and collection of fees and, from time to time, authorize higher fees to be charged and received by constables and deputy constables than those provided herein.*

(j) *In all criminal cases wherein the defendant is discharged or indigent or the case is 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. The act is amended by adding sections to read:

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

Section 1.2 The following words and phrases when used in this act 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 1.9.

“Board.” The Constables’ Education and Training Board established in section 1.3.

“Commission.” The Pennsylvania Commission on Crime and Delinquency of the Commonwealth.

“Term of office of a deputy constable.” *The term of office of the constable who appointed him or her.*

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

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

- (1) The Governor.*
- (2) The President pro tempore of the Senate.*
- (3) The Speaker of the House of Representatives.*
- (4) The Majority Leader of the Senate.*
- (5) The Majority Leader of the House of Representatives.*
- (6) The Minority Leader of the Senate.*
- (7) The Minority Leader of the House of Representatives.*

(c) Appointments and terms.—Every member of the board, at the time of his or her appointment or reappointment to the board, shall be either: (i) a constable; or (ii) a member of the bar of the Supreme Court of Pennsylvania who served previously as a constable. Officials and employees of the Commonwealth or of any political subdivision, if qualified as herein provided, shall be eligible for membership on the board. All members of the board shall serve for a period of three years, except that the first persons appointed by the Majority Leader of the Senate and the Majority Leader of the House of Representatives shall serve for a period of two years, and the first persons appointed by the Minority Leader of the Senate and the Minority Leader of the House of Representatives shall serve for a period of one year. Members of the board appointed or reappointed under clause (i) may complete their term of office on the board if they cease to be a constable but may not be reappointed thereafter; provided, however, that no constable may be appointed, be reappointed or serve as a board member unless he or she is certified pursuant to this act. Failure of a board member to be current in his or her certification shall result in the immediate and automatic forfeiture of board membership.

(d) 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 or she is to succeed in the same manner as the original appointment.

(e) 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 act.

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

(g) 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) The chairman shall summon the members of the board to the first meeting within thirty days after his appointment or within thirty 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.

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

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

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

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

(d) 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.

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

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

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

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

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

(j) 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.

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

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

(2) The activities of the board.

(3) The costs of the program.

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

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

effective date of this amendatory act 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.

Section 1.6. 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 forty hours per year, concerning subjects the board may deem necessary and appropriate for the continued education and training of constables and deputy constables.

Section 1.7. All constables and deputy constables who are in office as of the effective date of this amendatory act shall be deemed to be certified under and in compliance with sections 1.5, 1.6 and 1.8 of this act for the balance of their current term of office.

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

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

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

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

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

Section 1.9. (a) There is hereby established a special restricted account within the General Fund of the State Treasury, 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 act.

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

(c) 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, within one week of collecting or receiving any surcharges, remit the same to the Department of Revenue for deposit into the account.

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

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

Section 3. The act of November 29, 1990 (P.L.574, No.147), entitled, "An act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the jurisdiction of the

Philadelphia Municipal Court; and adding provisions relating to constables," is repealed.

Section 4. This act shall take effect as follows:

- (1) Section 3 of this act shall take effect immediately.
- (2) The remainder of this act shall take effect in 30 days.

APPROVED—The 9th day of July, A. D. 1992.

ROBERT P. CASEY