
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1375

Session of
1975

INTRODUCED BY MESSRS. ECKENSBERGER, PRATT, DOYLE, ZORD, REED,
CUMBERLAND, ZELLER, POLITE, RITTER, ZWIKL, DAVIS,
DiCARLO, BRANDT, LEHR, MCGINNIS, SPENCER, RUGGIERO, GARZIA
AND GREEN, JUNE 3, 1975

SENATOR NOLAN, RULES AND EXECUTIVE NOMINATIONS, IN SENATE,
AS AMENDED, JUNE 22, 1976

AN ACT

1 Implementing the provisions of article V of the Constitution of
2 Pennsylvania relating to district justices; establishing
3 magisterial districts; setting salaries and expenses;
4 providing for certain education requirements; fixing
5 jurisdiction; creating an administrator for district justices
6 and imposing powers and duties on such administrator;
7 requiring certain liability insurance; and making repeals.

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

10 ARTICLE I

11 Preliminary Provisions

12 Section 101. Short Title.--This act shall be known and may
13 be cited as the "Magisterial District Reform Act."

14 Section 102. Application.--Except for magisterial districts
15 in cities of the first class and counties of the first class,
16 this act shall apply to all magisterial districts in this
17 Commonwealth.

18 Section 103. Definitions.--As used in this act:

1 "Board" means the administrative board known as the "Minor
2 Judiciary Education Board" established by this act.

3 "Court" means the Supreme Court of Pennsylvania or the court
4 of common pleas for each judicial district under the direction
5 of the Supreme Court of Pennsylvania.

6 "Department" means the Department of Education.

7 "District justice" means a justice of the peace elected or
8 appointed to a term of office on or after January 1, 1970.

9 "Political subdivision" means a city of the second class, a
10 city of the second class A, city of the third class, borough,
11 incorporated town and townships of the first or second class or
12 any similar general purpose unit of government hereafter created
13 by the General Assembly.

14 "Population" means the number of persons residing within a
15 political subdivision or part thereof as determined by the then
16 current Federal decennial or Federal special census.

17 "Population density" means the number of persons residing
18 within a political subdivision or part thereof as determined by
19 dividing said number by the land area expressed in square miles
20 as determined in the official publication by the Bureau of
21 Statistics of the Department of Commerce.

22 ARTICLE II

23 Magisterial Districts and Compensation

24 Section 201. Classification of Magisterial Districts.--(a)
25 Second class counties.--The classes of magisterial districts in
26 judicial districts coextensive with counties of the second class
27 shall be determined as follows:

28 (1) Magisterial districts of the first class shall have a
29 population density of more than 5,000 persons per square mile
30 and a population of not less than 65,000 persons.

(2) Magisterial districts of the second class shall have a population density of more than 500 persons per square mile and a population of between 22,500 and 65,000 persons.

(3) Magisterial districts of the third class shall have a population density of more than 200 persons per square mile and a population of between 12,000 and 22,500 persons.

(4) Magisterial districts of the fourth class shall have a population density of more than 70 persons per square mile and a population of between 7,500 and 12,000 persons.

(5) Magisterial districts of the fifth class shall have a population density of less than 70 persons per square mile and a population of between 4,000 and 7,500 persons.

(b) Other counties.--The classes of magisterial districts in judicial districts not coextensive with counties of the first class or counties of the second class shall be determined as follows:

(1) Magisterial districts of the first class shall have a population density of more than 1,000 persons per square mile and a population of not less than 15,000 persons.

(2) Magisterial districts of the second class shall have a population density of more than 400 persons per square mile and a population of not less than 4,000 persons.

(3) Magisterial districts of the third class shall have a population density of less than 400 persons per square mile and a population of not less than 4,000 persons.

(4) Magisterial districts of the fourth class shall have a population density of less than 400 persons per square mile and a population of between 2,000 and 4,000 persons. The number of magisterial districts of the fourth class within a judicial district shall not be increased.

1 Section 202. Reestablishment of Magisterial Districts.--(a)
2 General rule.--In each year following that in which the Federal
3 decennial census is officially reported as required by Federal
4 law the court shall reestablish the number, boundaries and
5 classes of magisterial districts within each judicial district
6 except:

7 (1) The first judicial district.

8 (2) Any judicial district where a community court has been
9 established and not discontinued.

10 The number, boundaries and class of magisterial districts within
11 each judicial district shall be revised from time to time as
12 required for the efficient administration of justice within each
13 magisterial district.

14 (b) Discontinuance of community court.--The court upon the
15 discontinuance of a community court shall establish the number,
16 boundaries and classes of magisterial districts within the
17 judicial district embracing such discontinued community court.
18 Such action shall be completed prior to the first Monday of
19 January of the odd-numbered year next following the primary
20 election at which the discontinuance of the community court is
21 approved.

22 (c) Standards for establishment of magisterial districts.--
23 In the case of a political subdivision containing within its
24 boundaries two or more magisterial districts, the court shall
25 divide the political subdivision into magisterial districts as
26 nearly equal as possible in population and area, and the court
27 may presume that the population density of each part of a
28 political subdivision is the same population density as for the
29 whole political subdivision. The court in establishing the
30 number and boundaries of magisterial districts shall not

1 subdivide political subdivisions unless either:

2 (1) the political subdivision contains two or more
3 noncontiguous parts; or

4 (2) the political subdivision contains within its boundaries
5 two or more magisterial districts, in which case wards or other
6 election districts of the political subdivision shall not be
7 subdivided.

8 Section 203. Number of Justices.--There shall be one
9 district justice for each magisterial district established.

10 Section 204. Priority of Judicial Business.--A district
11 justice shall devote the time necessary for the prompt and
12 proper disposition of the business of his office, which shall be
13 given priority over any other occupation, business, profession,
14 pursuit or activity. He shall not use or permit the use of the
15 premises established for the disposition of his magisterial
16 business for any other occupation, business, profession or
17 gainful pursuit. No district justice shall hold any other
18 elected or appointed public office in the Commonwealth. All
19 district justices shall be subject to the Canons of Ethics
20 applied to judges of the courts of common pleas of this
21 Commonwealth in so far as such canons apply to salaries, full-
22 time duties and conflicts of interest.

23 Section 205. Retired District Justices.--Retired district
24 justices, who retire subsequent to January 1, 1976, may be
25 eligible for recall to duty by the district justice
26 administrator at the same per diem salary as paid to a district
27 justice serving outside of the elected magisterial district.

28 A qualified retired district justice, who wishes to be
29 recalled for duty, shall register with the district justice
30 administrator and agree to abide by any rules and regulations

1 set forth by the administrator.

2 Retired district justices shall not include district justices
3 defeated for reelection by the electorate, nor shall it include
4 any district justice who was suspended or removed from office.

5 Section 206. Compensation.--(a) A district justice shall
6 receive an annual salary paid by the Commonwealth and computed
7 by adding to nine thousand dollars (\$9,000) the product of the
8 population of his magisterial district times ~~forty cents (40¢)~~ <—
9 SIXTY CENTS (60¢), but in no event shall the salary exceed <—
10 nineteen thousand five hundred dollars (\$19,500) or be less than
11 ten thousand five hundred dollars (\$10,500).

12 (b) Expenses while temporarily assigned.--Any district
13 justice temporarily assigned to sit outside the political
14 subdivision in which such justice's magisterial district is
15 located shall be paid by the county, in which magisterial
16 district the justice is temporarily assigned to, the actual,
17 accountable expenses, not to exceed \$44 per day, and mileage at
18 15¢ per mile for each day as such justice is so assigned.

19 Section 207. Mandatory Liability Insurance.--Every district
20 justice shall be covered by an errors and omissions liability
21 insurance policy to be purchased by the Commonwealth in such
22 amounts as are set forth by the Supreme Court. In meeting its
23 obligation under this section, the Commonwealth shall purchase
24 one policy covering all district justices within the
25 Commonwealth.

26 The cost of such liability insurance shall be equally divided
27 between the Commonwealth and the individual district justices.

28 Section 208. Offices.--The district justice shall establish
29 an office or offices within the magisterial district in
30 locations approved by the president judge of the court of common

1 pleas in compliance with standards and rules prescribed by the
2 Supreme Court.

3 Reasonable costs and expenses incident to the establishment,
4 maintenance and operation of offices of district justices as
5 approved by the president judge of the court of common pleas and
6 the county commissioners in compliance with standards and rules
7 prescribed by the Supreme Court shall be paid by the county in
8 which the offices are located.

9 Section 209. Disposition.--(a) Costs.--Costs collected by a
10 district justice shall be paid monthly to the Commonwealth in
11 amounts as prescribed in subsection (b), and the balance shall
12 be paid monthly to the county in which the magisterial district
13 is located. Costs paid to the Commonwealth shall be credited to
14 the General Fund. Costs paid to the county shall be retained by
15 the county for its use.

16 (b) Commonwealth share.--Amounts payable to the
17 Commonwealth:

18	(1) Summary convictions, except motor vehicle	
19	cases	\$ 5.00
20	(2) Summary convictions, motor vehicle cases other	
21	than (3) below	\$ 5.00
22	(3) Summary convictions, motor vehicle cases,	
23	hearing demanded	\$ 5.00
24	(4) Misdemeanor	\$ 7.00
25	(5) Felony	\$ 8.00
26	(6) Assumpsit or trespass involving	
27	(i) \$100 or less	\$ 2.50
28	(ii) More than \$100 but not more than	
29	\$300	\$ 5.00
30	(iii) More than \$300 but not more than	

1	\$500	\$ 7.50
2	(iv) More than \$500	\$10.00
3	(7) Landlord-tenant proceeding	\$10.00
4	(8) Order of execution	\$10.00
5	(9) Issuing a search warrant	\$ 7.00

6 ARTICLE III

7 Powers and Duties

8 Section 301. Powers of District Justices.--Every district
9 justice shall have power to issue every lawful process to or to
10 be served or enforced by system and related personnel and to
11 make such lawful orders as his official business may require.

12 Section 302. Seal.--Each magisterial district shall have a
13 seal, which shall be in the custody of the district justice
14 elected or appointed for such district. The official acts of the
15 district justice shall be authenticated therewith. There shall
16 be engraved on the seal such inscription as may be specified by
17 general rule.

18 Section 303. Jurisdiction.--Except as otherwise provided,
19 district justices shall, under procedures prescribed by general
20 rule, have jurisdiction of the following matters:

21 (1) All civil claims wherein the sum demanded does not
22 exceed \$2,000, exclusive of interest and costs, in the following
23 classes of cases:

24 (i) actions in assumpsit, except cases where the title to
25 real estate may be in question;

26 (ii) actions in trespass, including all forms of trespass
27 and trespass on the case; and

28 (iii) actions for fines and penalties by any government
29 agency.

30 A plaintiff may waive a portion of the claim of more than \$2,000

1 so as to bring the matter within the jurisdiction of a district
2 justice. Such waiver shall remain effective except upon appeal
3 by either party or when the judgment is set aside upon
4 certiorari.

5 (2) All summary offenses, except those within the
6 jurisdiction of an established and open traffic court.

7 (3) All violations under the provisions of section 1037 of
8 the act of April 29, 1959 (P.L.58, No.32), known as "The Vehicle
9 Code," provided the following criteria are met:

- 10 (i) the violation is a first offense;
11 (ii) no personal injury resulted from the violation;
12 (iii) no property damage resulted from the violation; and
13 (iv) the defendant pleads guilty.

14 The arresting authority shall transmit a copy of the charge of
15 any violation of section 1037 of "The Vehicle Code," to the
16 county clerk of courts within five days after the preliminary
17 arraignment. Within ten days after the disposition, the district
18 justice shall certify the disposition to the county clerk of
19 courts.

20 (4) All violations under the provisions of Title 18 (Crimes
21 and Offenses) of the act of November 25, 1970 (P.L.707, No.230),
22 known as the Pennsylvania Consolidated Statutes which are
23 classified as misdemeanors of the third degree, except
24 violations under sections 4303, 4321, 4323 and 5103 of Title 18,
25 provided the following criteria are met:

- 26 (i) the misdemeanor is not the result of a reduced charge;
27 (ii) the defendant pleads guilty; and
28 (iii) any personal injury and/or property damage is less than
29 \$100.

30 (5) Matters arising under the act of April 6, 1951 (P.L.69,

1 No.20), known as "The Landlord and Tenant Act of 1951," which
2 are stated therein to be within the jurisdiction of a justice of
3 the peace.

4 (6) As commissioners to preside at arraignments, fix and
5 accept bail, issue warrants and perform duties of a similar
6 nature including the jurisdiction of a committing magistrate in
7 all criminal proceedings.

8 (7) All matters jurisdiction of which is vested in district
9 justices by any statute.

10 Section 304. Venue and Process.--(a) Venue.--The venue of a
11 district justice concerning matters over which jurisdiction is
12 conferred by section 303 shall be as prescribed by general rule.

13 (b) Process.--The process of the district justice shall
14 extend beyond the limits of the magisterial district to the
15 extent prescribed by general rule.

16 Section 305. Lien of Judgment.--No judgment of a district
17 justice shall in any manner operate as a lien on real property
18 until a transcript of the record showing a final judgment of a
19 district justice has been filed in the manner prescribed by
20 general rules in the office of the clerk of the court of common
21 pleas of the county where the property is situated, or in the
22 office of the clerk of the branch of the court of common pleas
23 embracing such county. After such entry the judgment shall, from
24 the date of such entry, be a lien upon property to the same
25 extent that judgment recovered in the court of common pleas is a
26 lien. No such transcript shall be filed until after 30 days
27 after the entry of final judgment by the district justice. No
28 execution against real estate shall be issued by a district
29 justice.

30 Section 306. Restitution.--(a) Restitution authorized.--In

1 addition to the punishment prescribed by law for an offense
2 within the jurisdiction of a district justice to convict and
3 sentence a defendant, upon conviction of the defendant of the
4 offense the district justice may order the defendant to
5 compensate the victim of the criminal conduct for the damage or
6 injury that he sustained.

7 (b) Authority of district justice.--In determining whether
8 to order restitution the district justice:

9 (1) Shall consider:

10 (i) The financial means of the defendant.

11 (ii) The extent of injury suffered by the victim.

12 (iii) Such other matters of record as he deems appropriate.

13 (2) May order restitution in a lump sum, by monthly
14 installments, or according to such other schedule as he deems
15 just.

16 (3) May at any time alter or amend any order of restitution
17 made pursuant to this section.

18 (c) Payment and records.--Restitution shall be made by the
19 defendant to the district justice. The district justice shall
20 forward to the victim the property or payments made pursuant to
21 the restitution order. The district justice shall maintain
22 records of the restitution order and its satisfaction.

23 (d) Enforcement of order.--Whenever the defendant shall fail
24 to make restitution within 20 days to a district justice as
25 ordered, the district justice shall declare the defendant in
26 contempt of court and forward the case to the court of common
27 pleas. Upon receipt of the contempt decision from a district
28 justice, the court shall order a hearing to determine if the
29 defendant is in contempt of court.

30 (e) Civil remedies preserved.--No order of restitution shall

1 debar the owner of the property or the victim who sustained
2 personal injury, by appropriate action, to recover from the
3 defendant as otherwise provided by law, provided that any civil
4 award shall take into account the money paid under the order of
5 restitution.

6 ARTICLE IV

7 Costs

8 Section 401. Criminal Cases.--The costs to be charged by the
9 minor judiciary in every criminal case, except as hereinafter
10 provided, shall be as follows:

- 11 (1) Summary conviction, except motor vehicle cases... \$16.00
12 (2) Summary convictions, motor vehicle cases,
13 other than (3) below..... \$10.00
14 (3) Summary convictions, motor vehicle cases,
15 hearing demanded..... \$15.00
16 (4) Misdemeanor..... \$20.00
17 (5) Felony..... \$25.00

18 Such costs shall include all charges including the costs of
19 postage and registered mail and the costs of giving a transcript
20 to the prosecutor or defendant, or both, if requested.

21 Section 402. Payment of Summary Conviction Costs by
22 County.--(a) Division of costs.--In every case of summary
23 conviction in which the evidence is not sufficient to convict
24 and the defendant is dismissed, the costs thereof shall be borne
25 by the county if the prosecutor is a police officer engaged as
26 such in the employ of this Commonwealth or of any of its
27 political subdivisions. In all other cases, the costs shall be
28 paid by the prosecutor or by the defendant if so permitted by
29 law.

30 (b) County to pay where default.--In every case of summary

1 conviction in which the defendant is convicted and sentenced to
2 jail in default of the payment of the fine and costs imposed,
3 the costs of prosecution shall be paid by the county.

4 (c) County of the second class.--In any case before a
5 salaried magistrate where costs are payable by a county of the
6 second class, the costs chargeable to the county shall be one-
7 half of the costs set forth in section 401.

8 Section 403. Civil Cases.--The costs to be charged by the
9 minor judiciary in every civil case, except as hereinafter
10 provided, shall be as follows:

- | | | |
|----|--|---------|
| 11 | (1) Assumpsit or trespass involving \$100 or less..... | \$10.00 |
| 12 | (2) Assumpsit or trespass involving more than | |
| 13 | \$100 but not more than \$300..... | \$15.00 |
| 14 | (3) Assumpsit or trespass involving more than | |
| 15 | \$300 but not more than \$500..... | \$20.00 |
| 16 | (4) Assumpsit or trespass involving more than \$500... | \$25.00 |
| 17 | (5) Landlord and tenant proceeding..... | \$25.00 |
| 18 | (6) Order of execution..... | \$15.00 |

19 Such costs shall include all charges including, when called
20 for, the costs relating to depositions and interrogatories and
21 the costs of postage and registered mail, except the costs of a
22 transcript of every proceeding on appeal or certiorari
23 (including affidavit, bail and certificate), which shall be
24 \$2.50 per transcript.

25 Section 404. Unclassified Costs or Charges.--The costs to be
26 charged by the minor judiciary in the following instances not
27 readily classifiable shall be as follows:

- | | | |
|----|--|--------|
| 28 | (1) Order for relief or removal of pauper..... | \$3.00 |
| 29 | (2) Order to seize goods for maintenance of | |
| 30 | wife or children..... | \$3.00 |

1 Supreme Court, three of the members shall be district justices
2 or judges of the Traffic Court of the City of Philadelphia, and
3 one member shall be a lay citizen. Three members shall be
4 appointed for terms of five years, three members shall be
5 appointed for terms of four years, and one member shall be
6 appointed for a term of three years, and until their successors
7 have been appointed and qualified. Thereafter each appointment
8 shall be for a term of five years and until a successor has been
9 appointed and qualified. Four members of the board shall
10 constitute a quorum; and, no action of the board shall be valid
11 unless it shall have the concurrence of at least four members.
12 Each member shall be paid \$50 for each day or part thereof upon
13 which he attends a board meeting, or performs any duty assigned
14 to him by the chairman; and, he shall be reimbursed for
15 reasonable traveling or other expenses incurred incident to such
16 attendance and to such assigned duty. The board shall organize
17 by electing a chairman. The board shall prescribe and approve
18 the subject matter and the examination for the course of
19 instruction and training required by the Constitution of the
20 Commonwealth of Pennsylvania and this act. The department shall
21 serve as the administrative officers of the board and in such
22 capacity shall, subject to the direction of the board,
23 administer the course of instruction and training and conduct
24 the examination.

25 Section 502. Course of Instruction.--District justices shall
26 complete a course of training and instruction in the duties of
27 their offices as required by the Constitution of the
28 Commonwealth of Pennsylvania and successfully pass an
29 examination prior to filing a nominating petition for a
30 candidacy in a primary election for the office of district

1 justice, which course of training and instruction shall not
2 exceed four weeks in duration and shall consist of a minimum of
3 40 hours of class instruction in civil and criminal law
4 including evidence, procedure, summary proceeding, and laws
5 relating to motor vehicles. The department shall make the course
6 of instruction available at such times as determined by it and
7 the board, so as to insure that any district justice, to be
8 elected or appointed may qualify to assume office as soon as
9 possible. By regulation the board shall direct the department to
10 conduct the course at such time, at such places and in such
11 manner as it shall prescribe.

12 In addition to those required by the Constitution of the
13 Commonwealth of Pennsylvania and this act to complete the course
14 of training and instruction and successfully pass an examination
15 prior to filing a nominating petition for a candidacy in a
16 primary election for the office of district justice, any
17 interested person may apply to the department to be enrolled in
18 the course of instruction and take the examination, subject to
19 such rules and regulations as the department with the approval
20 of the board may determine. Any such interested person who
21 successfully completes the course and passes the examination
22 shall secure an appropriate certificate from the department and
23 file same as set forth in section 505.

24 Section 503. Costs.--The course of training and instruction
25 required by the Constitution of the Commonwealth of Pennsylvania
26 and this act shall be provided at the expense of the
27 Commonwealth. Until such person has successfully completed the
28 course of training and instruction and passed the examination,
29 he shall not file any nominating petition for the office of
30 district justice anywhere in the Commonwealth.

1 Section 504.--Rules and Regulations.--The department shall,
2 with the approval of the board, have the power to promulgate
3 such rules and regulations as are necessary to carry out its
4 duties under this act.

5 Section 505. Completion of Course.--Upon the successful
6 completion of the course of training and instruction and
7 examination, the department shall issue a certificate in the
8 form prescribed by the board, certifying that such person is
9 qualified to perform his duties as required by the Constitution
10 of the Commonwealth of Pennsylvania. Such certificate shall be
11 filed in the office of the prothonotary of the county in which
12 the district justice resides. In the event that an appointed
13 district justice as required by the Constitution of the
14 Commonwealth of Pennsylvania and this act to successfully
15 complete such course, has failed to obtain and file such
16 certificate in the proper prothonotary's office within nine
17 months after his appointment, said office of district justice or
18 judge shall be vacant, such vacancy to be filled as otherwise
19 provided by law, and in the case of justice of the peace, said
20 office shall be abolished.

21 Section 506. Continuing Education Requirement.--Every
22 district justice shall complete a continuing education program
23 each year equivalent to not less than 32 hours per year in such
24 courses or programs as are approved by the board.

25 ARTICLE VI

26 District Justice Administrator

27 Section 601. Office of District Justice Administrator.--
28 There is hereby established within the Administrative Office of
29 Pennsylvania Courts a branch office to be known as the Office of
30 District Justice Administrator to be supervised by such person

1 as the Supreme Court shall appoint to act as administrator.

2 Section 602. Powers and Duties.--The district justice
3 administrator shall have the following powers and duties:

4 (1) to be responsible for the prompt and proper disposition
5 of the business of all district justices;

6 (2) to perform all functions now carried out by the court
7 administrator;

8 (3) to require and receive reports from the various judicial
9 districts relating to the utilization of the district justices
10 in the judicial districts;

11 (4) to transfer the various district justices to other
12 judicial districts on a temporary basis in an effort to remove
13 any backlog of cases. Any transfers made under this paragraph
14 shall be subject to the approval of the president judge of the
15 judicial district from which the district justice is being
16 temporarily transferred;

17 (5) to prescribe forms to be used by district justices;

18 (6) to make such rules and regulations as are necessary to
19 the efficient functioning of the Office of District Justice
20 Administrator; and

21 (7) to employ such individuals as approved by the Supreme
22 Court to implement the provisions of this act.

23 ARTICLE VII

24 Miscellaneous Provisions

25 Section 701. Repealers.--(a) Specific repealers.--

26 (1) The act of January 7, 1952 (P.L.1841, No.492), known as
27 the "Minor Judiciary Fee Bill."

28 (2) The act of December 2, 1968 (P.L.1131, No.352), known as
29 the "Magisterial Districts Act," in so far as it relates to
30 district justices and magisterial districts outside of cities

1 and counties of the first class.

2 (3) The act of February 24, 1970 (P.L.53, No.22), known as
3 the "Minor Judiciary Education Act," in so far as it relates to
4 district justices.

5 (b) General repealer.--Any act or part of an act
6 inconsistent with the provisions of this act is repealed to the
7 extent of the inconsistency.

8 Section 702. Effective Date.--This act shall take effect
9 July 1, 1976.