

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 418 Session of 2009

INTRODUCED BY BAKER, PICKETT, CAUSER, GINGRICH, BELFANTI, BEYER,
BOYD, COHEN, CREIGHTON, DALLY, DENLINGER, FLECK, GEIST,
KAUFFMAN, KIRKLAND, MILLER, O'NEILL, RAPP, ROHRER AND
VULAKOVICH, FEBRUARY 13, 2009

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 13, 2009

A JOINT RESOLUTION

1 Proposing integrated amendments to the Constitution of the
2 Commonwealth of Pennsylvania, providing for hearing and
3 deciding cases involving dissolution of marriage, custody,
4 child support, spousal support, alimony, equitable division
5 of marital property and related family law matters.

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

8 Section 1. The following integrated amendments to the
9 Constitution of Pennsylvania are proposed in accordance with
10 Article XI:

11 (1) That section 5 of Article V be amended to read:

12 § 5. Courts of common pleas.

13 There shall be one court of common pleas for each judicial
14 district (a) having such divisions and consisting of such number
15 of judges as shall be provided by law, one of whom shall be the
16 president judge; and

17 (b) having unlimited original jurisdiction in all cases
18 except as may otherwise be provided by law[.]; and

1 (c) having a procedure for the disposition of cases
2 involving dissolution of marriage, custody, child support,
3 spousal support, alimony, alimony pendente lite, equitable
4 division of marital property and related family law matters as
5 provided by statute; and

6 (d) having a family resource center as provided by statute;
7 and

8 (e) having educational requirements for judges and family
9 law masters and mediators as provided by statute.

10 (2) That section 10(c) of Article V be amended to read:

11 § 10. Judicial administration.

12 * * *

13 (c) The Supreme Court shall have the power to prescribe
14 general rules governing practice, procedure and the conduct of
15 all courts, justices of the peace and all officers serving
16 process or enforcing orders, judgments or decrees of any court
17 or justice of the peace, including the power to provide for
18 assignment and reassignment of classes of actions or classes of
19 appeals among the several courts as the needs of justice shall
20 require, and for admission to the bar and to practice law, and
21 the administration of all courts and supervision of all officers
22 of the Judicial Branch, if such rules are consistent with this
23 Constitution and neither abridge, enlarge nor modify the
24 substantive rights of any litigant, nor affect the right of the
25 General Assembly to determine the jurisdiction of any court or
26 justice of the peace, nor suspend nor alter any statute of
27 limitation or repose. [All] Except for statutes enacted pursuant
28 to section 5 of this article, all laws shall be suspended to the
29 extent that they are inconsistent with rules prescribed under
30 these provisions. Notwithstanding the provisions of this

1 section, the General Assembly may by statute provide for the
2 manner of testimony of child victims or child material witnesses
3 in criminal proceedings, including the use of videotaped
4 depositions or testimony by closed-circuit television.

5 * * *

6 (3) That section 18(a)(7), (8) and (9), (b)(5), (c)(1), (3)
7 and (4) and (d) introductory paragraph and (1), (2) and (3) of
8 Article V be amended to read:

9 § 18. Suspension, removal, discipline and other sanctions.

10 (a) There shall be an independent board within the Judicial
11 Branch, known as the Judicial Conduct Board, the composition,
12 powers and duties of which shall be as follows:

13 * * *

14 (7) The board shall receive and investigate complaints
15 regarding judicial conduct filed by individuals or initiated by
16 the board against a justice, judge, justice of the peace or
17 family law master; issue subpoenas to compel testimony under
18 oath of witnesses, including the subject of the investigation,
19 and to compel the production of documents, books, accounts and
20 other records relevant to the investigation; determine whether
21 there is probable cause to file formal charges against a
22 justice, judge [or], justice of the peace or family law master
23 for conduct proscribed by this section; and present the case in
24 support of the charges before the Court of Judicial Discipline.

25 (8) Complaints filed with the board or initiated by the
26 board shall not be public information. Statements, testimony,
27 documents, records or other information or evidence acquired by
28 the board in the conduct of an investigation shall not be public
29 information. A justice, judge [or], justice of the peace or
30 family law master who is the subject of a complaint filed with

1 the board or initiated by the board or of an investigation
2 conducted by the board shall be apprised of the nature and
3 content of the complaint and afforded an opportunity to respond
4 fully to the complaint prior to any probable cause determination
5 by the board. All proceedings of the board shall be confidential
6 except when the subject of the investigation waives
7 confidentiality. If, independent of any action by the board, the
8 fact that an investigation by the board is in progress becomes a
9 matter of public record, the board may, at the direction of the
10 subject of the investigation, issue a statement to confirm that
11 the investigation is in progress, to clarify the procedural
12 aspects of the proceedings, to explain the rights of the subject
13 of the investigation to a fair hearing without prejudgment or to
14 provide the response of the subject of the investigation to the
15 complaint. In acting to dismiss a complaint for lack of probable
16 cause to file formal charges, the board may, at its discretion,
17 issue a statement or report to the complainant or to the subject
18 of the complaint, which may contain the identity of the
19 complainant, the identity of the subject of the complaint, the
20 contents and nature of the complaint, the actions taken in the
21 conduct of the investigation and the results and conclusions of
22 the investigation. The board may include with a report a copy of
23 information or evidence acquired in the course of the
24 investigation.

25 (9) If the board finds probable cause to file formal charges
26 concerning mental or physical disability against a justice,
27 judge [or], justice of the peace or family law master, the board
28 shall so notify the subject of the charges and provide the
29 subject with an opportunity to resign from [judicial] his office
30 or, when appropriate, to enter a rehabilitation program prior to

1 the filing of the formal charges with the Court of Judicial
2 Discipline.

3 * * *

4 (b) There shall be a Court of Judicial Discipline, the
5 composition, powers and duties of which shall be as follows:

6 * * *

7 (5) Upon the filing of formal charges with the court by the
8 board, the court shall promptly schedule a hearing or hearings
9 to determine whether a sanction should be imposed against a
10 justice, judge [or], justice of the peace or family law master
11 pursuant to the provisions of this section. The court shall be a
12 court of record, with all the attendant duties and powers
13 appropriate to its function. Formal charges filed with the court
14 shall be a matter of public record. All hearings conducted by
15 the court shall be public proceedings conducted pursuant to the
16 rules adopted by the court and in accordance with the principles
17 of due process and the law of evidence. Parties appearing before
18 the court shall have a right to discovery pursuant to the rules
19 adopted by the court and shall have the right to subpoena
20 witnesses and to compel the production of documents, books,
21 accounts and other records as relevant. The subject of the
22 charges shall be presumed innocent in any proceeding before the
23 court, and the board shall have the burden of proving the
24 charges by clear and convincing evidence. All decisions of the
25 court shall be in writing and shall contain findings of fact and
26 conclusions of law. A decision of the court may order removal
27 from office, suspension, censure or other discipline as
28 authorized by this section and as warranted by the record.

29 * * *

30 (c) Decisions of the court shall be subject to review as

1 follows:

2 (1) A justice, judge [or], justice of the peace or family
3 law master shall have the right to appeal a final adverse order
4 of discipline of the court. A judge [or], justice of the peace
5 or family law master shall have the right to appeal to the
6 Supreme Court in a manner consistent with rules adopted by the
7 Supreme Court; a justice shall have the right to appeal to a
8 special tribunal composed of seven judges, other than senior
9 judges, chosen by lot from the judges of the Superior Court and
10 Commonwealth Court who do not sit on the Court of Judicial
11 Discipline or the board, in a manner consistent with rules
12 adopted by the Supreme Court. The special tribunal shall hear
13 and decide the appeal in the same manner in which the Supreme
14 Court would hear and decide an appeal from an order of the
15 court.

16 * * *

17 (3) An order of the court which dismisses a complaint
18 against a judge [or], justice of the peace or family law master
19 may be appealed by the board to the Supreme Court, but the
20 appeal shall be limited to questions of law. An order of the
21 court which dismisses a complaint against a justice of the
22 Supreme Court may be appealed by the board to a special tribunal
23 in accordance with paragraph (1), but the appeal shall be
24 limited to questions of law.

25 (4) No justice, judge [or], justice of the peace or family
26 law master may participate as a member of the board, the court,
27 a special tribunal or the Supreme Court in any proceeding in
28 which the justice, judge or justice of the peace is a
29 complainant, the subject of a complaint, a party or a witness.

30 (d) A justice, judge [or], justice of the peace or family

1 law master shall be subject to disciplinary action pursuant to
2 this section as follows:

3 (1) A justice, judge [or], justice of the peace or family
4 law master may be suspended, removed from office or otherwise
5 disciplined for conviction of a felony; [violation of section 17
6 of this article;] misconduct in office; neglect or failure to
7 perform the duties of office or conduct which prejudices the
8 proper administration of justice or brings the judicial office
9 into disrepute, whether or not the conduct occurred while acting
10 in a judicial capacity or is prohibited by law; or conduct in
11 violation of a canon or rule prescribed by the Supreme Court. A
12 justice, judge or justice of the peace may be suspended, removed
13 from office or otherwise disciplined for a violation of section
14 17 of this article. A judge or family law master may be
15 suspended or removed from office for failure to complete
16 judicial education requirements as provided by statute. In the
17 case of a mentally or physically disabled justice, judge [or],
18 justice of the peace or family law master, the court may enter
19 an order of removal from office, retirement, suspension or other
20 limitations on the activities of the justice, judge [or],
21 justice of the peace or family law master as warranted by the
22 record. Upon a final order of the court for suspension without
23 pay or removal, prior to any appeal, the justice, judge [or],
24 justice of the peace or family law master shall be suspended or
25 removed from office; and the salary of the justice, judge [or],
26 justice of the peace or family law master shall cease from the
27 date of the order.

28 (2) Prior to a hearing, the court may issue an interim order
29 directing the suspension, with or without pay, of any justice,
30 judge [or], justice of the peace or family law master against

1 whom formal charges have been filed with the court by the board
2 or against whom has been filed an indictment or information
3 charging a felony. An interim order under this paragraph shall
4 not be considered a final order from which an appeal may be
5 taken.

6 (3) A justice, judge [or], justice of the peace or family
7 law master convicted of misbehavior in office by a court,
8 disbarred as a member of the bar of the Supreme Court or removed
9 under this section shall forfeit automatically his judicial
10 office and thereafter be ineligible for judicial office.

11 * * *

12 Section 2. (a) Upon the first passage by the General
13 Assembly of these proposed constitutional amendments, the
14 Secretary of the Commonwealth shall proceed immediately to
15 comply with the advertising requirements of section 1 of Article
16 XI of the Constitution of Pennsylvania and shall transmit the
17 required advertisements to two newspapers in every county in
18 which such newspapers are published in sufficient time after
19 passage of these proposed constitutional amendments.

20 (b) Upon the second passage by the General Assembly of these
21 proposed constitutional amendments, the Secretary of the
22 Commonwealth shall proceed immediately to comply with the
23 advertising requirements of section 1 of Article XI of the
24 Constitution of Pennsylvania and shall transmit the required
25 advertisements to two newspapers in every county in which such
26 newspapers are published in sufficient time after passage of
27 these proposed constitutional amendments. The Secretary of the
28 Commonwealth shall submit the proposed constitutional amendments
29 under section 1 to the qualified electors of this Commonwealth
30 as a single ballot question at the first primary, general or

1 municipal election which meets the requirements of and is in
2 conformance with section 1 of Article XI of the Constitution of
3 Pennsylvania and which occurs at least three months after the
4 proposed constitutional amendments are passed by the General
5 Assembly.